



Journal of the House

State of Indiana

113th General Assembly

First Regular Session

Twenty-fourth Meeting Day

Tuesday Morning

February 25, 2003

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Pastor W. Michael Roberts, Centenary United Methodist Church, New Albany, the guest of Representative William C. Cochran.

The Pledge of Allegiance to the Flag was led by Representative Earl L. Harris.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Moses
Buck	Murphy
Budak	Neese
Buell	Noe
Burton	Orentlicher
Cheney	Oxley
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks	Porter
Day	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith
Frenz	Stevenson
Friend	Stilwell
Frizzell	Stine
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount
Koch	Mr. Speaker

Roll Call 184: 100 present. The Speaker announced a quorum in attendance.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, February 26, 2003, at 10:00 a.m.

CROOKS

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 263, 386, 465, 505, 506, and 556 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 21, 22, 23, 24, and 27 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE BILLS ON SECOND READING

House Bill 1020

Representative V. Smith called down House Bill 1020 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1047

Representative Ulmer called down House Bill 1047 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1120

Representative Porter called down House Bill 1120 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1120-1)

Mr. Speaker: I move that House Bill 1120 be amended to read as follows:

Page 3, line 17, delete "scores." and insert "scores and an explanation of the statistical significance of variance in ISTEP scores."

(Reference is to HB 1120 as printed February 21, 2003.)

THOMPSON

After discussion, Representative Thompson withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

House Bill 1130

Representative C. Brown called down House Bill 1130 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1174

Representative Hasler called down House Bill 1174 for second reading. The bill was read a second time by title. There being no

amendments, the bill was ordered engrossed.

House Bill 1383

Representative Bischoff called down House Bill 1383 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1499

Representative Welch called down House Bill 1499 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1499-1)

Mr. Speaker: I move that House Bill 1499 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new line block indented and insert:

"(3) An eyesight examination.

(4) An actual demonstration of the principal operator's ability to exercise ordinary and reasonable control in the operation of a motor vehicle."

Page 2, line 25, after "(c)" insert **"Subsection (b) applies to a motor vehicle insurance policy that covers a motor vehicle, the principal operator of which is an individual who is more than sixty nine (69) years of age, only if the principal operator has, within the three (3) years before the issuance or renewal of the motor vehicle insurance policy, successfully completed the requirements established under IC 9-27-6-1(3) and IC 9-27-6-1(4).**

(d)".

Page 2, line 29, delete "(d)" and insert **"(e)".**

Page 2, line 35, delete "(e)" and insert **"(f)".**

Page 2, line 42, after "IC 9-27-6" insert **"and meets the applicable requirements of subsection (c)".**

Page 3, line 2, delete "(f)" and insert **"(g)".**

Page 3, line 6, delete "(g)" and insert **"(h)".**

(Reference is to HB 1499 as printed February 19, 2003.)

RIPLEY

Motion failed. The bill was ordered engrossed.

House Bill 1569

Representative Kersey called down House Bill 1569 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1569-1)

Mr. Speaker: I move that House Bill 1569 be amended to read as follows:

Page 1, line 16, delete "through" and insert **"about the manner in".**

Page 1, line 17, after "program" insert **"or a patient assistance program".**

(Reference is to HB 1569 as printed February 19, 2003.)

HASLER

Motion prevailed. The bill was ordered engrossed.

House Bill 1605

Representative Reske called down House Bill 1605 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1643

Representative Hasler called down House Bill 1643 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1683

Representative L. Lawson called down House Bill 1683 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1683-1)

Mr. Speaker: I move that House Bill 1683 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-9-11-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The motor carrier services division of the department of state revenue may adopt rules under IC 4-22-2 to implement and administer this chapter.

SECTION 2. IC 8-9-11-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A person who violates this chapter commits a Class C infraction."

Renumber all SECTIONS consecutively.

(Reference is to HB 1683 as printed February 7, 2003.)

L. LAWSON

Motion prevailed.

HOUSE MOTION (Amendment 1683-2)

Mr. Speaker: I move that House Bill 1683 be amended to read as follows:

Page 2, after line 5, begin a new paragraph and insert:

"Section 1. IC 8-6-12-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Local Condemnation of Neglected Railroad Property. The board of public works or board of public works and safety of a city or town legislative body may issue a written improvement order requiring that any railroad undertake to repair or improve that space immediately adjacent to its rails and within its rails. The written improvement order shall be given by the board or body to the railroad, interurban, or interurban street railroad company and must allow the railroad company thirty (30) days in which to commence the repairs or improvement. If the railroad company fails to complete the work within one hundred eighty (180) days, then the board or body may proceed with condemnation proceedings for the taking of that property not repaired or improved.

(Reference is to HB 1683 as printed February 18, 2003.)

ALDERMAN

Motion prevailed. The bill was ordered engrossed.

House Bill 1757

Representative Klinker called down House Bill 1757 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1757-1)

Mr. Speaker: I move that House Bill 1757 be amended to read as follows:

Page 1, line 10, delete "IC 25-26;" and insert **"this article;"**.

Page 2, line 36, delete "paid the fee set by the board" and insert **"applied for certification".**

Page 2, line 36, delete "4" and insert **"5".**

Page 4, line 29, after "IC 25-26-19" insert **", as added by this act,"**.

(Reference is to HB 1757 as printed February 20, 2003.)

KLINKER

Motion prevailed.

HOUSE MOTION (Amendment 1757-2)

Mr. Speaker: I move that House Bill 1757 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "covered individual" means an individual who is entitled to

coverage under an employee health benefit plan.

(b) As used in this section, "employee health benefit plan" means a group plan of self-insurance, policy, or contract that:

- (1) provides coverage for prescription drugs; and
- (2) is established, purchased, or entered into by an employer for the benefit of the employer's employees.

(c) As used in this section, "employer" means the following:

- (1) A public employer.
- (2) A state educational institution (as defined in IC 20-12-0.5-1).

(d) As used in this section, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

(e) An employee health benefit plan that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to a covered individual.

(f) An employee health benefit plan may not require a covered individual to obtain a prescription drug from a pharmacy designated under subsection (e) as a condition of coverage.

SECTION 2. IC 12-15-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The office or a managed care organization that has a contract with the office under IC 12-15-12 may designate a mail order or an Internet based pharmacy (as defined in IC 25-26-18-1) to provide prescription drugs to a recipient.

(b) The office or a managed care organization described in subsection (a) may not require a recipient to obtain a prescription drug from a pharmacy designated under subsection (a)."

Page 1, line 10, delete "IC 25-26;" and insert "this article;".

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 4. IC 27-8-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "insurer" refers to an insurer (as defined in IC 27-1-2-3) that issues a policy of accident and sickness insurance.

Sec. 2. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

Sec. 3. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 4. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

Sec. 5. (a) An insurer that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to an insured.

(b) An insurer may not require an insured to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 5. IC 27-13-37.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 37.5. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 2. (a) A health maintenance organization may designate, under an individual contract or a group contract that provides coverage for prescription drugs, a mail order or an Internet based pharmacy to provide prescription drugs to an enrollee.

(b) A health maintenance organization may not require an enrollee to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 6. [EFFECTIVE JULY 1, 2003] (a) IC 5-10-8-13, as added by this act, applies to an employee health benefit plan that is entered into, issued, delivered, amended, or renewed after June 30, 2003.

(b) IC 12-15-5-7, as added by this act, applies to a contract with a managed care organization that is entered into, delivered,

amended, or renewed after June 30, 2003.

(c) IC 27-8-31, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2003.

(d) IC 27-13-37.5, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2003."

Page 4, line 29, after "IC 25-26-19" insert ", as added by this act,".

Renumber all SECTIONS consecutively.

(Reference is to HB 1757 as printed February 20, 2003.)

KLINKER

Representative T. Brown rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question was on the motion of Representative Klinker (Amendment 1757-2). Motion prevailed. The bill was ordered engrossed.

House Bill 1804

Representative Alderman called down House Bill 1804 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1804-1)

Mr. Speaker: I move that House Bill 1804 be amended to read as follows:

Page 5, after line 4, begin a new paragraph and insert: "The provisions of this section shall not apply to a provider of wireless telecommunications service."

(Reference is to HB 1804 as printed February 19, 2003.)

ALDERMAN

Motion prevailed. The bill was ordered engrossed.

House Bill 1826

Representative Leonard called down House Bill 1826 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1864

Representative Robertson called down House Bill 1864 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1864-1)

Mr. Speaker: I move that House Bill 1864 be amended to read as follows:

Page 3, line 30, delete "an accredited" and insert "a".

Page 3, line 37, delete "an accredited" and insert "the".

Page 4, line 2, strike "an accredited" and insert "a".

Page 4, line 5, strike "accredited".

(Reference is to HB 1864 as printed February 18, 2003.)

ROBERTSON

Motion prevailed.

HOUSE MOTION
(Amendment 1864-4)

Mr. Speaker: I move that House Bill 1864 be amended to read as follows:

Page 6, delete lines 27 through 42.

Page 7, delete lines 1 through 21.

Page 9, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 7. IC 34-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed three hundred thousand dollars (\$300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars (\$5,000,000) for injury to or death of all

persons in that occurrence. A governmental entity **or employee of a governmental entity acting within the scope of employment** is not liable for punitive damages."

Page 10, line 37, after "or" insert "**has received proper legal notice and**".

Page 10, line 40, strike "pay:" and insert "**pay**".

Page 10, line 42, strike "(1)".

Page 10, run in lines 41 through 42.

Page 10, line 42, delete "**(other than for punitive damages)**".

Page 11, line 4, strike "loss;" and insert "**loss**".

Page 11, line 4, delete "**or**".

Page 11, line 5, strike "(2)".

Page 11, line 5, delete "**any judgment for punitive damages, compromise, or**".

Page 11, delete lines 6 through 8.

Page 11, line 9, delete "**may or may not beheld personally liable for the loss, and**".

Page 11, line 9, strike "the:".

Page 11, strike lines 10 through 13.

Page 11, line 14, strike "determines that paying the judgment".

Page 1, line 14, delete "**for punitive damages**".

Page 11, strike lines 15 through 16.

Renumber all SECTIONS consecutively.

(Reference is to HB 1864 as printed February 18, 2003.)

TORR

Motion prevailed. The bill was ordered engrossed.

House Bill 1968

Representative Thompson called down House Bill 1968 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

HOUSE MOTION

Mr. Speaker: I move that Engrossed House Bill 1822 be returned to the second reading calendar for the purpose of amendment.

RESKE

Motion prevailed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1022

Representative V. Smith called down Engrossed House Bill 1022 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 185: yeas 82, nays 14. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Wyss, Rogers, Dillon, and S. Smith.

Engrossed House Bill 1139

Representative C. Brown called down Engrossed House Bill 1139 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 186: yeas 96, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Dillon, Breaux, Miller, and Simpson.

Engrossed House Bill 1145

Representative Crawford called down Engrossed House Bill 1145

for third reading:

A BILL FOR AN ACT concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 187: yeas 89, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Howard.

Engrossed House Bill 1166

Representative Frenz called down Engrossed House Bill 1166 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 188: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax and Hume.

Engrossed House Bill 1171

Representative Herrell called down Engrossed House Bill 1171 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 189: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long and Craycraft.

Engrossed House Bill 1201

Representative Cochran called down Engrossed House Bill 1201 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 190: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Sipes and Harrison.

Engrossed House Bill 1200

Representative Kromkowski called down Engrossed House Bill 1200 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 191: yeas 85, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Craycraft.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1146, has had the

same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 41, reset in roman "(a)".

Page 8, line 4, delete "The board".

Page 8, delete lines 5 through 10.

Page 8, between lines 30 and 31, begin a new paragraph and insert:

"(b) Notwithstanding the licensing requirement in subsection (a), the board may enter into a reciprocity agreement with another state's licensing authority to allow a person who holds a private investigator license issued by the other state to work in Indiana for a prescribed period to complete an assignment originating outside Indiana. The reciprocity agreement also must allow a private investigator licensed under this chapter to complete in that other state an assignment that originates outside that other state. The standards for licensing in any state considered for reciprocity with Indiana must be at least equal to the standards in this chapter."

Page 8, line 33, strike "who employs more than fourteen (14) others".

Page 8, line 36, reset in roman "liability per".

Page 8, line 36, delete "for each".

Page 8, delete line 37.

Page 8, line 38, after "occurrence" insert ".".

Page 8, line 38, delete "for bodily injury liability, and one hundred thousand".

Page 8, delete line 39.

Page 8, strike lines 40 through 42.

Page 9, strike lines 1 through 13.

Page 9, line 15, delete "coverages and amounts listed in subsection (a)".

Page 9, line 16, strike "(c)" and insert **"(b)"**.

Page 9, line 16, strike "subsections (a) and (b)(2)" and insert **"subsection (a)"**.

Page 9, line 30, strike "(d)" and insert **"(c)"**.

Page 9, strike lines 37 through 42.

Page 10, strike lines 1 through 2.

Page 10, line 3, strike "(f)" and insert **"(d)"**.

Page 10, line 5, strike "or the surety bond".

Page 10, strike lines 12 through 17.

Page 10, between lines 28 and 29, begin a new paragraph and insert:

"(c) Each licensee must complete the continuing education required by the board before the end of each license renewal period."

(d) The board shall adopt rules under IC 4-22-2 concerning the continuing education required for the renewal of a license under this chapter.

(e) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

(2) Establish a fee for each hour of continuing education required after a license is issued or renewed.

(3) Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of private investigators."

Page 10, line 29, strike "(c)" and insert **"(f)"**.

Page 10, line 36, strike "(d)" and insert **"(g)"**.

Page 10, line 39, delete "(e)" and insert **"(h)"**.

(Reference is to HB 1146 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1153, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 3.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 23, delete "and purple".

Page 2, line 41, reset in roman "amber".

Page 2, line 41, delete "purple".

Page 3, line 12, after "procession;" insert **"and"**.

Page 3, line 14, delete "safe; and" and insert **"safe."**

Page 3, delete lines 15 through 16.

Page 3, line 18, delete "illuminated." and insert **"illuminated and may display flashing amber lights."**

(Reference is to HB 1196 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1231, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause, and insert:

SECTION 1. IC 4-33-4-3, AS AMENDED BY P.L.14-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(C) The natural environment and scenic beauty of Patoka Lake.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's ~~inspectors and agents~~ enforcement officers during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(D) With respect to riverboats that operate on Patoka Lake, ensure compliance with the following:

(i) IC 14-26-2-6.

(ii) IC 14-26-2-7.

(iii) IC 14-28-1.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

SECTION 2. IC 4-33-4-3.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.6. (a) The commission ~~may~~ **shall** employ or contract for inspectors and agents enforcement officers and auditors to perform the duties required under section 3(7) of this chapter. The licensed owners shall, in the manner prescribed by the rules of the commission, reimburse the commission for:

(1) the training expenses incurred to train an enforcement officer; and

(2) the salaries and other expenses of the ~~inspectors and agents~~ **enforcement officers and auditors** required to be present during the time gambling operations are conducted on a riverboat.

(b) Beginning January 1, 2005, the commission may not contract with the state police department to perform the duties required under section 3(7) of this chapter.

(c) An auditor employed under this section must be an accounting professional (as defined in IC 23-1.5-1-2).

(d) The number of auditors employed under this section is subject to the discretion of the executive director.

(e) Beginning January 1, 2005, the number of enforcement officers and auditors employed under this section may not be less than the number of state police officers assigned to perform the commission's duties under section 3(7) of this chapter on December 31, 2004.

SECTION 3. IC 4-33-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 4.5. Gaming Commission Enforcement Officers

Sec. 1. (a) The commission shall employ qualified individuals to serve as enforcement officers of the commission. Enforcement officers shall be employed so that not more than one-half (1/2) the number of enforcement officers are members of the same political party. The commission shall issue to an enforcement officer a certificate of employment under the seal of the commission. The courts of this state shall take judicial notice of a certificate of employment.

(b) If the commission employs an individual who was an Indiana state police officer just prior to being employed by the commission, the compensation the individual receives may not be less than the compensation the individual was receiving as an Indiana state police officer.

Sec. 2. (a) An enforcement officer is vested with full police powers and duties to enforce the provisions of this title.

(b) An enforcement officer may issue a summons for infraction or misdemeanor violations if the defendant promises to appear by signing the summons. A defendant who fails to appear is subject to the penalties provided by IC 35-44-3-6.5. Upon the defendant's failure to appear, the court shall issue a warrant for the arrest of the defendant.

(c) In addition to the powers and duties under subsection (a), an enforcement officer may act as an officer for the arrest of offenders against the laws of this state if the enforcement officer reasonably believes that a crime is or is about to be committed or attempted in the enforcement officer's presence.

Sec. 3. Each enforcement officer shall execute a surety bond in the amount of one thousand dollars (\$1,000), with surety approved by the commission, and an oath of office, both of which must be filed with the executive secretary of the commission.

Sec. 4. (a) The injury to, injury to the health of, or death of an enforcement officer is compensable under the appropriate provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to the health, or death arises out of and in the course of the performance of the officer's duties as an enforcement officer.

(b) For purposes of subsection (a) and IC 22-3-2 through IC 22-3-7, an enforcement officer is conclusively presumed to have accepted the compensation provisions provided in those

provisions.

Sec. 5. An eligible enforcement officer who retires with at least twenty (20) years of service as an enforcement officer may retain the officer's service weapon. The officer may receive, in recognition of the officer's service to the commission and to the public, a badge that indicates that the officer is retired. The commission shall issue the retiring officer an identification card stating the officer's name and rank, signifying that the officer is retired, and noting the officer's authority to retain the service weapon.

Sec. 6. (a) The commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the commission through the tenth year. The salary ranges that the board assigns to each rank must be divided into a base salary and ten (10) increments above the base salary with:

(1) the base salary in the rank paid to a person with less than one (1) year of service in the commission; and

(2) the highest salary in the rank paid to a person with at least ten (10) years of service in the commission.

(b) For purposes of creating the salary matrix prescribed by this section, the commission may not approve salary ranges for any rank that are less than the salary ranges effective for state police officers serving on riverboats as of January 1, 2003.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.

SECTION 4. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

(1) The state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan established under IC 5-10-5.5.

(2) The "trust fund" and "pension trust" of the state police department established under IC 10-1-2.

(3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.

(4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.

(5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.

(6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.

(7) The Indiana judges' retirement fund established under IC 33-13-8.

(8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.

(9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).

(10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.

(11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.

(12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.

(13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.

(14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.

(15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(17) The pension benefit paid for the national guard by the state as established under IC 10-2-4.

(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.

(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 5. IC 5-10-1.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police, **gaming enforcement**, and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-1-2.

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under IC 33-13-8.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 6. IC 5-10-5.5-1, AS AMENDED BY P.L.204-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the alcohol and tobacco commission.

(c) "Officer" means any Indiana state excise police officer, **or** any Indiana state conservation enforcement officer, **or any Indiana gaming enforcement officer**.

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the same rate of interest as is specified under the public employees' retirement law.

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 7. IC 5-10-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. There is hereby created a state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan to establish a means of providing special retirement, disability and survivor benefits to employees of the department, **the Indiana gaming commission**, and the **alcohol and tobacco** commission who are engaged exclusively in the performance of law enforcement duties.

SECTION 8. IC 5-10-5.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in

this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The state excise police, **gaming enforcement**, and conservation officers' retirement plan shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the retirement plan. In order to meet those requirements, the retirement plan is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the retirement plan to participants and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the retirement plan may be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter.

(4) If the retirement plan is terminated, or if all contributions to the retirement plan are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the retirement plan shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the retirement plan is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

SECTION 9. IC 5-10-5.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. The state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

SECTION 10. IC 5-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The state police department, conservation officers of the department of natural resources, **gaming enforcement officers of the Indiana gaming commission**, and the state excise police may establish common and unified plans of self-insurance for their employees, including retired

employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation.

(b) The state agencies listed in subsection (a) may not pay as the employer portion of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

SECTION 11. IC 5-10-10-4, AS AMENDED BY P.L.246-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.
- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer.
- (12) A state university police officer appointed under IC 20-12-3.5.
- (13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
 - (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
 - (B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(14) A gaming enforcement officer.

SECTION 12. IC 5-14-3-2, AS AMENDED BY P.L.90-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

- (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or
- (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

- (1) Manually transcribe and make notes, abstracts, or memoranda.
- (2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.
- (3) In the case of public records available:
 - (A) by enhanced access under section 3.5 of this chapter; or
 - (B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

- (4) In the case of electronically stored data, to manually

transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(d).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

- (1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.
- (2) Any:
 - (A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;
 - (B) political subdivision (as defined by IC 36-1-2-13); or
 - (C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.
- (3) Any entity or office that is subject to:
 - (A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or
 - (B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, **gaming enforcement officers of the Indiana gaming commission**, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 13. IC 35-47-4.5-3, AS ADDED BY P.L.70-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "public safety officer" means:

- (1) a state police officer;
- (2) a county sheriff;
- (3) a county police officer;
- (4) a correctional officer;
- (5) an excise police officer;
- (6) a county police reserve officer;
- (7) a city police officer;
- (8) a city police reserve officer;
- (9) a conservation enforcement officer;
- (10) a **gaming enforcement officer**;
- (11) a town marshal;
- (12) a deputy town marshal;
- (13) a state university police officer appointed under IC 20-12-3.5;
- (14) a probation officer;
- (15) a firefighter (as defined in IC 9-18-34-1);
- (16) an emergency medical technician; or
- (17) a paramedic.

SECTION 14. IC 4-33-4-3.5 IS REPEALED [EFFECTIVE JULY 1, 2003].

(Reference is to HB 1231 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1521, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 14, nays 0.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1738, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 3 through 8, begin a new paragraph and insert:
"SECTION 3. IC 7.1-1-3-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. "**Certificate**" means a **tobacco sales certificate for purposes of IC 7.1-3-18.5.**"

Page 2, delete lines 30 through 42.

Delete page 3.

Page 4, delete lines 1 through 29, begin a new paragraph and insert:

"SECTION 7. IC 7.1-3-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Reasons for Permit~~. The commission may issue a temporary beer permit only to:

- (a) (1) Enable a fair, athletic event, barbecue, picnic, **wedding reception**, convention, exhibition, spectacle or contest to be publicly held and carried on; or

(b) ~~Accommodate~~ (2) **Accommodate** the institutional activities of an association, society, charitable or benevolent organization, or a branch of one (1) of these, or both."

Page 4, line 33, delete "Permit" and insert "**Certificate**".

Page 4, line 35, delete "permit" and insert "**certificate**".

Page 4, line 37, delete "tobacco sales permit" and insert "**certificate**".

Page 4, line 39, delete "The" and insert "A".

Page 4, line 39, after "premises" insert "**consisting of a permanent building or structure,**".

Page 4, line 42, delete "tobacco sales permit" and insert "**certificate**".

Page 5, line 4, delete "one hundred" and insert "**fifty**".

Page 5, line 4, delete "(\$100)" and insert "**(\$50)**".

Page 5, line 5, delete "permit" and insert "**certificate**".

Page 5, between lines 6 and 7, begin a new paragraph and insert:

"(c) **The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.**"

Page 5, line 7, delete "tobacco sales permit" and insert "**certificate**".

Page 5, line 9, delete "permit" and insert "**certificate**".

Page 5, line 10, delete "address." insert "**name.**".

Page 5, line 11, after "The" insert "**permanent**".

Page 5, line 12, delete "permit" and insert "**certificate**".

Page 5, line 13, delete "permit" and insert "**certificate**".

Page 5, line 14, delete "tobacco sales permit" and insert "**certificate**".

Page 5, line 16, delete "permit" and insert "**certificate**".

Page 5, line 20, delete "tobacco sales permit" and insert "**certificate**".

Page 5, line 22, delete "permit" and insert "**certificate**".

Page 5, line 22, delete "violates this title," and insert "**fails to pay a civil penalty imposed for violating**".

Page 5, line 24, after "Before" insert "**imposing a civil penalty,**".

Page 5, line 24, after "suspending" insert ",."

Page 5, line 24, delete "permit" and insert "**certificate**".

Page 5, line 26, delete "permit" and insert "**certificate**".

Page 5, line 27, after "the" insert "**civil penalty,**".

Page 5, line 27, after "suspension" insert ",."

Page 5, line 28, delete "permit" and insert "**certificate**".

Page 5, delete lines 29 through 40, begin a new paragraph and insert:

"**Sec. 6. If a certificate has:**

(1) **expired;**

(2) **been suspended; or**

(3) **been revoked;**

the commission may not reinstate or renew the certificate until all civil penalties imposed against the certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7 have been paid."

Page 5, line 41, delete "8." and insert "7."

Page 5, line 41, delete "tobacco sales permit" and insert "**certificate**".

Page 6, line 1, delete "tobacco sales permit" and insert "**certificate**".

Page 6, between lines 3 and 4, begin a new paragraph and insert:
"SECTION 9. IC 7.1-3-23-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. ~~Revocation upon Conviction~~. The commission may revoke a wholesaler's, retailer's, or dealer's permit of any type after final judgment of conviction for an offense defined in this title. The commission ~~shall~~ **may** revoke the permit of a wholesaler, retailer, or dealer upon a second violation of a provision of this title whether a judgment of conviction ensues or not."

Page 6, line 7, after "five" insert "**one hundred**".

Page 6, line 7, delete "(\$50)" and insert "**(\$150)**".

Page 6, line 7, delete "day" and insert "**year**".

Page 6, line 20 after "(\$10)." insert "**The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.**"

Page 6, line 28, rest in roman "For a sale to take place under this".

Page 6, reset in roman lines 29 through 42.
 Page 7, reset in roman lines 1 through 11.
 Page 7, line 12, reset in roman "(e)".
 Page 7, line 12, delete "(b)".
 Page 7, line 21, delete "(c)" and insert "(f)".
 Page 7, line 28, reset in roman "For a sale to take place under this".
 Page 7, reset in roman lines 29 through 42.
 Page 8, reset in roman lines 1 through 32.
 Page 8, line 33, reset in roman "(e)".
 Page 8, line 33, delete "(b)".
 Page 8, line 42, delete "(c)" and insert "(f)".
 Page 9, delete lines 3 through 42.
 Delete page 10.
 Page 11, delete lines 1 through 11.
 Renumber all SECTIONS consecutively.
 (Reference is to HB 1738 as introduced.)
 and when so amended that said bill do pass.
 Committee Vote: yeas 11, nays 3.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1842, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.
 Delete pages 2 through 5.
 Page 6, delete lines 1 through 30.
 Page 7, line 28, delete "Indiana" and insert "**Indiana, whether directly or through a distributor, retailer, or similar intermediary or intermediaries,**".
 Page 8, line 2, delete "the" and insert "**was**".
 Page 8, line 3, delete "nonparticipating manufacturer".
 Page 8, line 7, delete "the nonparticipating manufacturer" and insert "**was**".
 Page 8, line 10, delete "the" and insert "**was**".
 Page 8, line 11, delete "nonparticipating manufacturer".
 Page 8, line 15, delete "the nonparticipating manufacturer" and insert "**was**".
 Page 8, line 19, delete "the department and".
 Page 9, line 5, delete "the department or".
 Page 9, line 31, delete "tobacco product" and insert "**nonparticipating**".
 Page 9, line 38, delete "listing:" and insert "**listing**".
 Page 9, delete lines 39 through 40.
 Page 9, line 41, delete "(2)".
 Page 9, run in lines 38 through 41.
 Page 14, line 1, after "court" insert "**only**".
 Renumber all SECTIONS consecutively.
 (Reference is to HB 1842 as introduced.)
 and when so amended that said bill do pass.
 Committee Vote: yeas 14, nays 0.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1849, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 29, delete "a crime involving" and insert "**domestic battery under IC 35-42-2-1.3**".
 Page 3, line 30, delete "domestic battery (as defined in IC 5-26.5-1-3)".
 Page 3, line 36, delete "a crime" and insert "**domestic battery under IC 35-42-2-1.3 and**".

Page 3, line 37, delete "involving domestic battery (as defined in IC 5-26.5-1-3)".

(Reference is to HB 1849 as introduced.)
 and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Joint Resolution 2, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:35 p.m. with the Speaker in the Chair.

With consent, the House returned to bills on second reading.

HOUSE BILLS ON SECOND READING

House Bill 1098

Representative Mahern called down House Bill 1098 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1098-2)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-9-1-25, AS AMENDED BY P.L.176-1999, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) A member of a committee that has appointed a treasurer in accordance with this chapter may solicit or receive contributions as long as the member immediately turns over the contributions without diminution to the treasurer of the committee, to be disbursed and accounted for by the treasurer as provided by this article. The treasurer shall show, in the treasurer's account and statement and in addition to the requirements of IC 3-9-5, through what member of the committee any contributions were received.

(b) A contribution is considered to be received and accepted by a committee when any member of the committee:

- (1) has physical possession of the contribution; and
- (2) manifests an intent to keep the contribution by depositing the contribution, subject to ~~IC 3-9-5-14(c)~~ **IC 3-9-5-14(b)**".

Page 3, line 3, strike "(a) As used in this section, "threshold".

Page 3, strike lines 4 through 9.

Page 3, line 10, strike "(b)" and insert "**(a)**".

Page 3, line 18, strike "in an".

Page 3, strike line 19.

Page 3, line 20, strike "in actual value to or for the committee,"

Page 5, line 8, strike "(c)" and insert "**(b)**".

Page 6, after line 5, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2003] **(a) IC 3-9-5-14, as amended by this act, applies to political contributions made after December 31, 2003.**

(b) This SECTION expires July 1, 2005."

(Reference is to HB 1098 as printed February 21, 2003.)

MURPHY

Upon request of Representatives Murphy and Friend, the Speaker ordered the roll of the House to be called. Roll Call 192: yeas 51, nays 46. Motion prevailed.

HOUSE MOTION
(Amendment 1098-3)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 2, line 14, after "party committee," insert "or".

Page 2, line 15, delete ", or a political action committee." and insert ".

Page 2, after line 42, begin a new paragraph and insert:

"(c) For purposes of subsection (b), the following apply:

(1) A political action committee is considered affiliated with another political action committee if either political action committee has transferred funds to the other political action committee.

(2) The contributions of a political action committee are:

(A) considered the contributions of each affiliated political action committee; and

(B) subject to the limits described in subsection (b)."

(Reference is to HB 1098 as printed February 21, 2003.)

MURPHY

Representative Mahern withdrew the call of House Bill 1098.

House Bill 1902

Representative Denbo called down House Bill 1902 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1902-1)

Mr. Speaker: I move that House Bill 1902 be amended to read as follows:

Page 18, line 6, after "(40,000)." insert **"The auditor of the county shall distribute the money paid to the county under this subdivision as follows:**

(A) Fifty percent (50%) to be retained by the county.

(B) Thirty percent (30%) to be paid to the cities and towns located in the county according to the ratio the population of each city or town bears to the total population of the cities and towns located in the county.

(C) Twenty percent (20%) to be paid to the county museum."

Page 24, line 4, after "(40,000)." insert **"The auditor of the county shall distribute the money paid to the county under this subdivision as follows:**

(A) Fifty percent (50%) to be retained by the county.

(B) Thirty percent (30%) to be paid to the cities and towns located in the county according to the ratio the population of each city or town bears to the total population of the cities and towns located in the county.

(C) Twenty percent (20%) to be paid to the county museum."

(Reference is to HB 1902 as printed February 20, 2003.)

CROOKS

Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1244

Representative Ayres called down Engrossed House Bill 1244 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 193: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Skillman and Dembowski.

Engrossed House Bill 1250

Representative V. Smith called down Engrossed House Bill 1250

for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 194: yeas 86, nays 12. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kenley, Rogers, and Breau.

Engrossed House Bill 1263

Representative Avery called down Engrossed House Bill 1263 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 195: yeas 49, nays 51. The bill was defeated.

Engrossed House Bill 1286

Representative Austin called down Engrossed House Bill 1286 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 196: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Craycraft.

Engrossed House Bill 1327

Representative Goodin called down Engrossed House Bill 1327 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 197: yeas 99, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Paul, Sipes, Landske, and Skinner.

Engrossed House Bill 1336

Representative T. Adams called down Engrossed House Bill 1336 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 198: yeas 62, nays 37. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Meeks and Craycraft.

HOUSE MOTION

Mr. Speaker: I move that House Joint Resolution 9 be reconsidered pursuant to Rule 152.

C. BROWN

Motion prevailed.

Engrossed House Joint Resolution 9

Representative C. Brown called down Engrossed House Joint Resolution 9 for third reading:

A JOINT RESOLUTION proposing an amendment to Article 7 of the Constitution of the State of Indiana concerning courts and court officers.

The joint resolution was reread a third time by sections and placed upon its passage. The question was, Shall the joint resolution pass?

Roll Call 199: yeas 52, nays 47. The joint resolution was declared passed. The question was, Shall the title of the joint resolution remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the joint resolution. Senate sponsors: Senators Landske, S. Smith, and Bowser.

Engrossed House Bill 1379

Representative Bischoff called down Engrossed House Bill 1379 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 200: yeas 92, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Dillon.

Engrossed House Bill 1415

Representative Budak called down Engrossed House Bill 1415 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 201: yeas 58, nays 40. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Antich.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed House Bill 1434

Representative Welch called down Engrossed House Bill 1434 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

The bill was read a third time by sections and placed upon its passage.

HOUSE MOTION

Mr. Speaker: I move that Engrossed House Bill 1434 be made a special order of business for February 26 at 4:00 p.m.

WHETSTONE

Motion failed.

After further discussion, Representative Welch withdrew the call of Engrossed House Bill 1434.

Engrossed House Bill 1476

Representative Kersey called down Engrossed House Bill 1476 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its

passage. The question was, Shall the bill pass? Representative Mays was excused from voting.

Roll Call 202: yeas 69, nays 29. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Meeks and Skinner.

Engrossed House Bill 1482

Representative Stevenson called down Engrossed House Bill 1482 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 203: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Jackman, Lewis, and Landske.

Representative Crooks was excused for the rest of the day.

Engrossed House Bill 1489

Representative Kersey called down Engrossed House Bill 1489 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 204: yeas 96, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Jackman and Hume.

Engrossed House Bill 1518

Representative Welch called down Engrossed House Bill 1518 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 205: yeas 87, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Ford and Broden.

Engrossed House Bill 1552

Representative Bischoff called down Engrossed House Bill 1552 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 206: yeas 84, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax and R. Young.

Engrossed House Bill 1556

Representative Liggett called down Engrossed House Bill 1556 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 207: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Meeks and Craycraft.

Engrossed House Bill 1559

Representative Dickinson called down Engrossed House Bill 1559 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 208: yeas 60, nays 35. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller, Bowser, Simpson, and Rogers.

Engrossed House Bill 1620

Representative L. Lawson called down Engrossed House Bill 1620 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 209: yeas 93, nays 5. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and Sipes.

Engrossed House Bill 1628

Representative Reske called down Engrossed House Bill 1628 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 210: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Lanane.

Engrossed House Bill 1679

Representative C. Brown called down Engrossed House Bill 1679 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 211: yeas 95, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kenley and S. Smith.

Engrossed House Bill 1690

Representative Weinzapfel called down Engrossed House Bill 1690 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 212: yeas 54, nays 43. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Gard.

Engrossed House Bill 1728

Representative Crawford called down Engrossed House Bill 1728 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 213: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Borst and Simpson.

Engrossed House Bill 1814

Representative Crawford called down Engrossed House Bill 1814 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 214: yeas 75, nays 22. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Borst and Simpson.

Engrossed House Bill 1815

Representative Crawford called down Engrossed House Bill 1815 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 215: yeas 84, nays 14. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Borst and Simpson.

RESOLUTIONS ON FIRST READING

House Resolution 17

Representative Porter introduced House Resolution 17:

A HOUSE RESOLUTION urging the establishment of an interim study committee to consider issues relating to the construction and financing of school facilities.

Whereas, In times of financial difficulty it is vital to find new and creative ways to fund school capital improvements and school facilities; and

Whereas, Issues that should be considered are the feasibility of cost savings in the design, financing, and construction of school facilities by coordinating those functions through an independent entity in a county, the methods of financing school facilities other than by ad valorem property taxes, and the legislative and regulatory issues related to the financing of school facilities and whether appropriate changes should be made in current law to address those issues: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. The legislative council is urged to establish a committee to consider issues relating to the construction and

financing of school facilities.

SECTION 2. The committee, if established, shall operate under the direction of the legislative council and issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1003, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 42, delete "." and reset in roman "and its finding shall be final."

Page 3, line 1, delete "If a person has substantial reason to believe that a"

Page 3, delete lines 2 through 9.

Page 3, line 10, delete "(i)".

Page 3, run in lines 1 through 10.

Page 3, line 13, delete "(j)" and reset in roman "(i)".

Page 3, line 19, delete "(k)" and reset in roman "(j)".

Page 3, line 24, delete "(l)" and reset in roman "(k)".

Page 4, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 3. IC 5-16-7-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.3. (a) A contractor or subcontractor may employ a person as an apprentice to perform work on a contract for the construction of a public work at less than the schedule of wages filed under section 2 of this chapter when all of the following conditions are met:

(1) The person is employed pursuant to a bona fide apprenticeship program registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

(2) The person is individually registered in the apprenticeship program described in subdivision (1).

(3) The allowable ratio of apprentices to journeymen on the job site in any craft classification is not greater than the ratio permitted to the contractor or subcontractor for the entire work force under the apprenticeship program described in subdivision (1).

(b) A contractor or subcontractor that lists a worker on a payroll at an apprentice wage rate without meeting the conditions in subsection (a) shall pay the worker not less than the rate of wages determined under this chapter for the classification of labor actually performed by the worker.

SECTION 4. IC 5-16-7-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) For each week in which a contractor or subcontractor performs work on a contract for which a schedule of wages was filed under section 2 of this chapter, the contractor or subcontractor shall submit a copy of all payrolls for the work performed on the contract for that week to the state or municipal corporation that let the contract.

(b) The payrolls submitted under subsection (a) must set out accurately and completely at least the following information for each worker:

(1) Name.

(2) Address.

(3) Social Security number.

(4) Labor classification.

(5) Wage rate paid.

(6) The daily and weekly number of hours worked.

(7) Deductions made from wages paid.

(8) Actual wages paid.

(c) In addition to the payroll information required under subsection (b), a contractor or subcontractor that employs an apprentice in accordance with section 2.3 of this chapter shall

submit written evidence of the following:

(1) The registration of the apprenticeship program with the United States Department of Labor's Bureau of Apprenticeship and Training.

(2) The individual registration forms for each apprentice.

(3) The applicable ratios and wage rates prescribed by the apprenticeship program.

(d) A contractor or subcontractor may submit the payroll information required under subsection (b) in any form the contractor or subcontractor desires.

(e) A contractor is responsible for the submission of the payroll information by all subcontractors performing work for the contractor.

(f) A contractor or subcontractor shall maintain the payrolls required by this section:

(1) during the course of the work; and

(2) for three (3) years after the last date work is performed; on the contract.

(g) A contractor or subcontractor shall:

(1) make the payrolls required by this section available for inspection, copying, or transcription; and

(2) permit interviews of employees during working hours on the job site;

by the authorized representatives of the state or municipal corporation that let the contract and the state department of labor.

SECTION 5. IC 5-16-7-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.7. (a) A subcontract for the performance of any work on a contract for which a schedule of wages was filed under section 2 of this chapter must include as terms of the subcontract:

(1) the schedule of wages filed under section 2 of this chapter;

(2) the certification required by subsection (b);

(3) the requirements of this chapter; and

(4) a requirement that the subcontractor include the terms in this section as terms in any lower tier subcontract.

(b) A contractor that enters into a contract for which a schedule of wages is filed under section 2 of this chapter shall certify that:

(1) neither the contractor nor any person with an ownership interest in the contractor is disqualified from being awarded the contract because of prior violations of the requirements of this chapter; and

(2) no part of the contract will be subcontracted to any person who is disqualified from being awarded the contract because of prior violations of the requirements of this chapter.

(c) A contractor is responsible for the compliance with this section by a subcontractor or lower tier subcontractor that is performing work for the contractor.

SECTION 6. IC 5-16-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A contractor or subcontractor who knowingly fails to pay the rate of wages determined under this chapter commits a Class B misdemeanor.

(b) A contractor or subcontractor who knowingly or intentionally:

(1) submits a payroll required by section 2.5 of this chapter; or

(2) makes a certification under section 2.7(b) of this chapter;

that contains information that is false or incomplete commits a Class A misdemeanor.

(c) A contractor or subcontractor who fails to submit a payroll required by section 2.5 of this chapter commits a Class B infraction.

(d) A contractor or subcontractor who fails to:

(1) make a payroll available for inspection, copying, or transcription; or

(2) permit an interview of an employee;

as required by section 2.5 (g) of this chapter commits a Class A

infraction.

(e) If the contractor or subcontractor has committed a prior **unrelated** offense under this section, the contract on which the instant offense occurred shall be forfeited and the contractor or subcontractor may not receive any further payment on the contract nor may the state or the municipal corporation making the contract make any further payments on the contract from any of the funds under its charge or control.

(f) **In addition to the penalty under subsection (e), a contractor or subcontractor who has a prior unrelated conviction under this section and is convicted of a subsequent offense under this section is disqualified for three (3) years after the date of the subsequent offense from being awarded a contract for construction of a public work by the state or a municipal corporation."**

Page 4, after line 42, begin a new paragraph and insert:

"SECTION 8. IC 5-16-7-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. A dispute relating to the payment of the common construction wage as determined under this chapter shall be submitted to the department of labor for resolution."**

Page 7, line 6, after "IC 22-3-7" insert ",".

Page 9, line 36, strike "fifteen" and insert **"thirty"**.

Page 9, line 36, strike "\$15" and insert **"(\$30)"**.

Page 12, line 11, after "treatment" insert **"with an attending physician described in subsection (a)"**.

Page 21, line 27, delete "If" and insert **"In computing the average weekly wage for"**.

Page 21, line 27, after "who" insert ":

(1)".

Page 21, line 27, after "injury" insert ";

(2)".

Page 21, line 28, after "work" insert ";

Page 21, line 28, delete "suffers" and begin a new line block indented and insert:

"(3) sustains".

Page 21, line 29, after "June 30, 2003" delete "," and insert ";

Page 21, line 29, block left beginning with "the average".

Page 21, line 29, delete "that" and insert **"the later"**.

Page 21, line 30, delete "determined based on" and insert **"the greater of"**.

Page 21, line 31, delete "disability" and insert **"compensable injury or the employee's average weekly wage at the time of the later period of disability,"**.

Page 21, line 32, after "day" insert **"the employee"**.

Page 34, line 34, reset in roman "benefits" and delete "compensation".

Page 43, line 36, delete "have jurisdiction to".

Page 43, line 39, after "from" insert **"the latest of the following:"**

(1)".

Page 43, line 39, reset in roman "last day for which compensation was paid".

Page 43, line 40, delete "date of the most recent".

Page 43, line 40, strike "award made either by agreement or upon".

Page 43, line 41, strike "hearing".

Page 44, line 1, after "paid." insert **"for temporary total disability, permanent partial impairment, or permanent total disability."**

(2) The date of an award for temporary total disability, permanent partial impairment, or permanent total disability.

(3) The last day that medical expenses under section 4 of this chapter were provided to the employee."

Page 44, line 1, begin a new line blocked left beginning with "The board".

Page 50, line 39, delete "occupational disease;" and insert **"injury;"**.

Page 50, line 42, delete "occupational disease" and insert **"injury"**.

Page 51, line 2, delete "determined based on the" and insert **"the greater of the employee's"**.

Page 51, line 3, delete "that disability," and insert **"the compensable injury or the employee's average weekly wage at the time of the later period of disability,"**.

Page 51, line 4, after "day" insert **"the employee"**.

Page 70, line 5, delete "compensation" and insert **"benefits"**.

Page 70, line 6, delete "reasonable amounts of" and insert **"additional"**.

Page 70, line 6, delete "taking into consideration" and insert **"equal to sixty-six and two-thirds percent (66 2/3%) of"**.

Page 70, line 8, delete ", the number of recipients entitled to compensation" and insert **"from occupational disease,"**.

Page 70, delete lines 9 through 10.

Page 70, line 11, delete "time of the application,".

Page 70, run in lines 8 through 11.

Page 70, line 11, after "maximum" insert **"compensation"**.

Page 70, line 16, delete "an occupational disease" and insert **"from causes and conditions"**.

Page 70, line 37, delete "under" and insert **"by"**.

Page 70, line 41, after "or" insert **"a"**.

Page 73, line 11, after "treatment" insert **"with an attending physician described in subsection (a)"**.

Page 81, line 26, delete "determined base on" and insert **"the greater of"**.

Page 81, line 26, after "based on the" insert **"employee's"**.

Page 81, line 26, delete "that".

Page 81, line 27, delete "disability," and insert **"the compensable occupational disease or the employee's average weekly wage at the time of the later period of disability,"**.

Page 81, line 28, after "day" insert **"the employee"**.

Page 85, line 39, after "due to" insert **"the employee's"**.

Page 86, line 26, strike "and".

Page 90, line 4, delete "have jurisdiction to".

Page 90, line 7, after "from" insert **"the latest of the following:"**

(1)".

Page 90, line 7, reset in roman "last day for which compensation was paid".

Page 90, line 8, delete "date of the most recent".

Page 90, line 8, strike "award made either by agreement or upon".

Page 90, line 9, strike "hearing".

Page 90, line 11, after "paid." insert **"for temporary total disability, permanent partial impairment, or permanent total disability."**

(2) The date of an award for temporary total disability, permanent partial impairment, or permanent total disability.

(3) The last day that medical expenses under section 4 of this chapter were provided to the employee."

Page 91, line 32, strike "fifteen" and insert **"thirty"**.

Page 91, line 32, strike "\$15" and insert **"(\$30)"**.

Page 99, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 53. IC 22-4-11-3, AS AMENDED BY P.L.30-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) ~~Except as provided in section 3-2 of this chapter,~~ The applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
1.0%	1.0%	A
1.5%	1.5%	B
2.25%	2.25%	C
		D

(b) For calendar years before 2002, if the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
As	Than	A	B	C	D	E
3.0		1.2	0.2	0.2	0.2	0.15
2.8	3.0	1.4	0.4	0.2	0.2	0.15
2.6	2.8	1.6	0.6	0.2	0.2	0.15
2.4	2.6	1.8	0.8	0.4	0.2	0.2
2.2	2.4	2.0	1.0	0.6	0.2	0.2
2.0	2.2	2.2	1.2	0.8	0.4	0.4
1.8	2.0	2.4	1.4	1.0	0.6	0.6
1.6	1.8	2.6	1.6	1.2	0.8	0.8
1.4	1.6	2.8	1.8	1.4	1.0	1.0
1.2	1.4	3.0	2.0	1.6	1.2	1.2
1.0	1.2	3.2	2.2	1.8	1.4	1.4
0.8	1.0	3.4	2.4	2.0	1.6	1.6
0.6	0.8	3.6	2.6	2.2	1.8	1.8
0.4	0.6	3.8	2.8	2.4	2.0	2.0
0.2	0.4	4.0	3.0	2.6	2.2	2.2
0	0.2	4.2	3.2	2.8	2.4	2.4

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
As	Than	A	B	C	D	E
	1.5	4.5	4.4	4.3	4.2	3.6
1.5	3.0	4.8	4.7	4.6	4.5	3.8
3.0	4.5	5.1	5.0	4.9	4.8	4.1
4.5	6.0	5.4	5.3	5.2	5.1	4.4
6.0		5.7	5.6	5.5	5.4	5.4

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 54. IC 22-4-11-3.3, AS AMENDED BY P.L.1-2002, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.3. (a) For calendar years 2002 through 2004, after 2001, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. Except as provided in section 3.2(b) of this chapter, Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
As	Than	A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15
2.80	3.00	1.30	0.30	0.10	0.10	0.15
2.60	2.80	1.50	0.50	0.10	0.10	0.15
2.40	2.60	1.70	0.70	0.30	0.10	0.20
2.20	2.40	1.90	0.90	0.50	0.10	0.20
2.00	2.20	2.10	1.10	0.70	0.30	0.40
1.80	2.00	2.30	1.30	0.90	0.50	0.60
1.60	1.80	2.50	1.50	1.10	0.70	0.80
1.40	1.60	2.70	1.70	1.30	0.90	1.00
1.20	1.40	2.90	1.90	1.50	1.10	1.20
1.00	1.20	3.10	2.10	1.70	1.30	1.40
0.80	1.00	3.30	2.30	1.90	1.50	1.60
0.60	0.80	3.50	2.50	2.10	1.70	1.80
0.40	0.60	3.70	2.70	2.30	1.90	2.00
0.20	0.40	3.90	2.90	2.50	2.10	2.20
0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years 2002 through 2004, after 2001, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
As	Than	A	B	C	D	E
	1.50	4.40	4.30	4.20	4.10	5.40
1.50	3.00	4.70	4.60	4.50	4.40	5.40
3.00	4.50	5.00	4.90	4.70	4.70	5.40
4.50	6.00	5.30	5.20	5.10	5.00	5.40
6.00		5.60	5.50	5.40	5.40	5.40

Page 119, line 22, delete "Hoosier" and insert "**Indiana**".

Page 119, line 25, delete "Sixty" and insert "**Seventy-five**".

Page 119, line 25, delete "(\$60,000,000)" and insert "**(\$75,000,000)**".

Page 119, line 25, after "to" insert ":

(A) **restructure the base period requirements to allow earlier qualification for UI benefits;**

(B) **increase the percentage of wage credits used to calculate UI benefits; or**

(C)".

Page 119, line 25, delete "Hoosier" and insert "**Indiana**".

Page 119, line 26, delete "designated by the department of workforce".

Page 119, line 27, delete "development".

Page 119, line 28, after "benefits" insert ";

Page 119, line 28, block indent left beginning with "in order".

Page 123, line 6, delete "FIVE" and insert "**FOUR**".

Page 123, line 10, delete "Subtract the number of" and insert "**Determine the percentage reduction in**".

Page 123, line 10, after "employee's" insert "**normal**".

Page 123, line 11, after "hours" insert "**as to those**".

Page 123, line 11, delete "plan from the" and insert "**plan**".

Page 123, delete line 12.

Page 123, line 13, delete "Divide the STEP TWO result by the number" and insert "**Multiply the number determined in STEP ONE by the quotient determined in STEP TWO**".

Page 123, delete line 14.

Page 123, line 15, delete "Multiply the number determined in STEP ONE".

Page 123, delete line 16.

Page 123, line 17, delete "STEP FIVE:".

Page 123, run in lines 15 through 17.

Page 132, line 21, after "given" insert ",".

Page 132, line 39, after "violation or" insert "an".

Page 140, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 73. [EFFECTIVE JULY 1, 2003] IC 5-16-7-1, IC 5-16-7-3, and IC 5-16-7-4, all as amended by this act, and IC 5-16-7-1.5, IC 5-16-7-2.3, IC 5-16-7-2.5, IC 5-16-7-2.7, and IC 5-16-7-5.5, all as added by this act, apply to contracts for the construction of a public work awarded after June 30, 2003."

Page 141, delete lines 3 through 4, begin a new paragraph and insert:

"SECTION 78. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 22-4-10.5-1; IC 22-4-11-3.2."

Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as printed January 31, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 9.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1073, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 25, delete "and".

Page 3, delete line 26.

Page 3, line 27, delete "employment in appropriate positions".

Page 3, line 27, delete "consideration of".

Page 3, line 28, delete "experience for advancement." and insert "experience."

(Reference is to HB 1073 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 4.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1128, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-21-2-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 16. (a) Before admitting a patient, a hospital shall notify the patient that the patient should verify that services provided by health care providers in the hospital are covered under the patient's health insurance plan.

(b) A hospital shall:

(1) conspicuously post a sign in the area in which patients are admitted; or

(2) provide written notice to a patient;

in language specified by the department of insurance to notify patients of the need to verify that services provided by health care providers in the hospital are covered under the patient's health insurance plan.

SECTION 2. IC 16-21-3-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) A hospital or an ambulatory outpatient surgical center shall not attempt to collect payment for services from a patient until the hospital or ambulatory outpatient surgical center, in compliance with IC 27-8-5.7 and IC 27-13-36.2, exhausts reasonable means of collecting payment for the services from the patient's insurer or

health maintenance organization.

(b) A hospital or an ambulatory outpatient surgical center that collects payment for services from a patient shall reimburse the patient for any amount of the payment collected from the patient that is later paid by an insurer or a health maintenance organization.

(c) A hospital or an ambulatory outpatient surgical center shall repay to the patient described in subsection (b) interest on the amount later paid at the same interest rate as provided in IC 12-15-21-3(7)(A) from the date on which the amount was collected from the patient to the date on which the hospital or ambulatory outpatient surgical center repays the patient.

SECTION 3. IC 16-21-3-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. A hospital or an ambulatory outpatient surgical center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states, in a font size specified by the department of insurance, that the notice is not a bill;

(2) does not include a tear-off portion;

(3) is not accompanied by a return mailing envelope; and

(4) is not provided to the patient earlier than sixty (60) days after the service is performed.

SECTION 4. IC 16-25-5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 9. (a) A hospice shall not attempt to collect payment for hospice services from a hospice program patient until the hospice, in compliance with IC 27-8-5.7 and IC 27-13-36.2, exhausts reasonable means of collecting payment for the hospice services from the hospice program patient's insurer or health maintenance organization.

(b) A hospice that collects payment for hospice services from a hospice program patient shall reimburse the hospice program patient for any amount of the payment collected from the hospice program patient that is later paid by an insurer or a health maintenance organization.

(c) A hospice shall repay to the patient described in subsection (b) interest on the amount later paid at the same interest rate as provided in IC 12-15-21-3(7)(A) from the date on which the amount was collected from the hospice program patient to the date on which the hospice repays the patient.

SECTION 5. IC 16-25-5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. A hospice that provides to a hospice program patient notice concerning a third party billing for a hospice service provided to the hospice program patient shall ensure that the notice:

(1) conspicuously states, in a font size specified by the department of insurance, that the notice is not a bill;

(2) does not include a tear-off portion;

(3) is not accompanied by a return mailing envelope; and

(4) is not provided to the hospice program patient earlier than sixty (60) days after the hospice service is performed.

SECTION 6. IC 16-27-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 17. (a) A home health agency shall not attempt to collect payment for home health services from a patient until the home health agency, in compliance with IC 27-8-5.7 and IC 27-13-36.2, exhausts reasonable means of collecting payment for the services from the patient's insurer or health maintenance organization.

(b) A home health agency that collects payment for home health services from a patient shall reimburse the patient for any amount of the payment collected from the patient that is later paid by an insurer or a health maintenance organization.

(c) A home health agency shall repay to the patient described in subsection (b) interest on the amount later paid at the same interest rate as provided in IC 12-15-21-3(7)(A) from the date on which the amount was collected from the patient to the date on which the home health agency repays the patient.

SECTION 7. IC 16-27-1-18 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 18. A home health agency that provides to a patient notice concerning a third party billing for a home health service provided to the patient shall ensure that the notice:**

- (1) conspicuously states, in a font size specified by the department of insurance, that the notice is not a bill;**
- (2) does not include a tear-off portion;**
- (3) is not accompanied by a return mailing envelope; and**
- (4) is not provided to the patient earlier than sixty (60) days after the home health service is performed.**

SECTION 8. IC 16-28-2-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 10. (a) A health facility shall not attempt to collect payment for services from a patient until the health facility, in compliance with IC 27-8-5.7 and IC 27-13-36.2, exhausts reasonable means of collecting payment for the services from the patient's insurer or health maintenance organization.**

(b) A health facility that collects payment for services from a patient shall reimburse the patient for any amount of the payment collected from the patient that is later paid by an insurer or a health maintenance organization.

(c) A health facility shall repay to the patient described in subsection (b) interest on the amount later paid at the same interest rate as provided in IC 12-15-21-3(7)(A) from the date on which the amount was collected from the patient to the date on which the health facility repays the patient.

SECTION 9. IC 16-28-2-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 11. A health facility that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:**

- (1) conspicuously states, in a font size specified by the department of insurance, that the notice is not a bill;**
- (2) does not include a tear-off portion;**
- (3) is not accompanied by a return mailing envelope; and**
- (4) is not provided to the patient earlier than sixty (60) days after the service is performed.**

SECTION 10. IC 25-1-9-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 19. (a) A practitioner shall not attempt to collect payment for health care services from a patient until the practitioner, in compliance with IC 27-8-5.7 and IC 27-13-36.2, exhausts reasonable means of collecting payment for the services from the patient's insurer or health maintenance organization.**

(b) A practitioner that collects payment for health care services from a patient shall reimburse the patient for any amount of the payment collected from the patient that is later paid by an insurer or a health maintenance organization.

(c) A practitioner shall repay to the patient described in subsection (b) interest on the amount later paid at the same interest rate as provided in IC 12-15-21-3(7)(A) from the date on which the amount was collected from the patient to the date on which the provider repays the patient.

SECTION 11. IC 25-1-9-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 20. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:**

- (1) conspicuously states, in a font size specified by the department of insurance, that the notice is not a bill;**
- (2) does not include a tear-off portion;**
- (3) is not accompanied by a return mailing envelope; and**
- (4) is not provided to the patient earlier than sixty (60) days after the health care service is performed."**

Page 1, between lines 4 and 5, begin a new paragraph and insert: "SECTION 13. IC 27-8-5.7-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 4.5. (a) A provider shall**

file with an insurer a claim for a health care service provided to an insured not more than forty-five (45) days after the health care service is provided. If the insured is covered under more than one (1) third party payment source, the provider shall file a claim for the health care service with the secondary payor not more than forty-five (45) days after the primary payor makes payment for the health care service.

(b) A provider that files with an insurer a claim for a health care service provided to an insured may not file with the insurer another claim for the same health care service until a period equal to the applicable time limit for payment of a clean claim under section 6(a) of this chapter has expired since the filing of the first claim.

(c) A provider that has the capacity to file a claim electronically may not attempt to collect payment from an insured for a health care service unless:

- (1) the provider has electronically filed in compliance with subsection (b) not less than two (2) claims for the health care service with the insurer; and**
- (2) a period equal to the time limit for payment of a clean claim under section 6(a)(1) of this chapter has expired since the filing of the second claim.**

(d) If a provider violates subsection (c) and the violation has an adverse effect on the insured's credit report, the provider shall take all action necessary to remedy the adverse effect."

Page 1, line 7, delete "six (6) months" and insert "two (2) years".

Page 1, line 8, delete ":".

Page 1, delete line 9.

Page 1, line 10, delete "(2)".

Page 1, run in lines 8 through 10.

Page 1, line 10, delete "the" and insert "a clean".

Page 1, line 10, delete "described in subdivision (1)".

Page 1, line 11, delete "the provider" and insert "a provider".

Page 1, line 11, delete ";" and insert ",".

Page 1, run in lines 11 through 12.

Page 1, line 13, delete "from the provider." and insert ".".

Page 1, line 14, delete "Every" and insert "After December 31, 2003, every".

Page 2, between lines 5 and 6, begin a new paragraph and insert:

"(c) This section does not apply if the provider or insured has been charged or convicted of fraud or misrepresentation with respect to the claim on which the overpayment was made."

Page 2, line 8, after "An" insert "insurer's preauthorization of a health care service remains effective for seven (7) days after the date on which performance of the health care service was proposed at the time of the preauthorization, and the".

Page 2, line 10, delete "for any reason other than that:" and insert "during the preauthorization period, unless:".

Page 2, line 13, delete "unnecessary; or" and insert "not medically necessary;".

Page 2, line 15, delete "." and insert ";

- (3) the health care service was not a covered benefit on the date on which the health care service was performed; or**

- (4) the information provided to the insurer for payment of a claim for the preauthorized health care service is substantially different from the information provided to the insurer at the time the health care service was preauthorized."**

Page 2, delete lines 16 through 32, begin a new paragraph and insert:

"SECTION 16. IC 27-8-5.8-1, AS ADDED BY P.L.230-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 1. (a) Except as provided in subsection (b), as used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis. The term does not include the following:**

- (1) Accident only, credit, dental, vision, Medicare, Medicare supplement, long term care, or disability income insurance.**
- (2) Coverage issued as a supplement to liability insurance.**
- (3) Automobile medical payment insurance.**

- (4) A specified disease policy.
- (5) A limited benefit health insurance policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.

(b) As used in section 5 of this chapter, "accident and sickness insurance policy" means an insurance policy described in subsection (a) that is issued on an individual or a group basis.

SECTION 17. IC 27-8-5.8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. An insurer that issues an accident and sickness insurance policy shall include on an insured's insurance benefit card language specified by the department of insurance notifying the insured of the need to verify, before seeking hospital services, that services provided by health care providers in a hospital are covered under the insured's accident and sickness insurance policy.

SECTION 18. IC 27-13-9-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 6. A health maintenance organization shall include on an enrollee's health maintenance organization benefit card language specified by the department notifying the enrollee of the need to verify, before seeking hospital services, that services provided by health care providers in a hospital are covered under the enrollee's contract with the health maintenance organization.

SECTION 19. IC 27-13-36.2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2.5. (a) A provider shall file with a health maintenance organization a claim for a health care service provided to an enrollee not more than forty-five (45) days after the health care service is provided. If the enrollee is covered under more than one (1) third party payment source, the provider shall file a claim for the health care service with the secondary payor not more than forty-five (45) days after the primary payor makes payment for the health care service.

(b) A provider that files with a health maintenance organization a claim for a health care service provided to an enrollee may not file with the health maintenance organization another claim for the same health care service until a period equal to the applicable time limit for payment of a clean claim under section 4(a)(1) of this chapter has expired since the filing of the first claim.

(c) A provider that has the capacity to file a claim electronically may not attempt to collect payment from an enrollee for a health care service unless:

- (1) the provider has electronically filed in compliance with subsection (b) at least two (2) claims for the health care service with the health maintenance organization; and
- (2) a period equal to the time limit for payment of a clean claim under section 4(a)(1) of this chapter has expired since the filing of the second claim.

(d) If a provider violates subsection (c) and the violation has an adverse effect on the enrollee's credit report, the provider shall take all action necessary to remedy the adverse effect."

Page 2, line 36, delete "six (6) months" and insert "two (2) years".

Page 2, line 37, delete ":".

Page 2, delete line 38.

Page 2, line 39, delete "(2)".

Page 2, run in lines 37 through 39.

Page 2, line 39, delete "the" and insert "a clean".

Page 2, line 39, delete "described in subdivision (1)".

Page 2, line 40, delete "the provider" and insert "a provider".

Page 2, line 41, delete "," and insert ",".

Page 2, run in lines 41 through 42.

Page 3, line 1, delete "from the provider." and insert ".".

Page 3, line 2, delete "Every" and insert "After December 31, 2003, every".

Page 3, between lines 11 and 12, begin a new paragraph and insert:

"(c) This section does not apply if the provider or enrollee has been charged or convicted of fraud or misrepresentation with respect to the claim on which the overpayment was made."

Page 3, line 14, after "maintenance" insert "organization's preauthorization of a health care service remains effective for seven (7) days after the date on which performance of the health care service was proposed at the time of the preauthorization, and the health maintenance".

Page 3, line 17, delete "for any reason other than that:" and insert "during the preauthorization period, unless:".

Page 3, line 20, delete "unnecessary; or" and insert "not medically necessary;".

Page 3, line 22, delete "." and insert ";"

(3) the health care service was not a covered benefit on the date on which the health care service was performed; or

(4) the information provided to the health maintenance organization for payment of a claim for the preauthorized health care service is substantially different from the information provided to the health maintenance organization at the time the health care service was preauthorized."

Page 3, delete lines 23 through 40, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE UPON PASSAGE] The department of insurance shall, not later than September 30, 2003, adopt rules under IC 4-22-2 specifying language required under:

(1) IC 16-21-2-16, as added by this act, to be posted in a hospital or provided as written notice by a hospital to a patient notifying the patient of the need to verify that services provided by health care providers in the hospital are covered under the patient's health insurance plan;

(2) IC 27-8-5.8-5, as added by this act, to be included on an insured's insurance benefit card notifying the insured of the need to verify, before seeking hospital services, that services provided by health care providers in the hospital are covered under the insured's accident and sickness insurance policy; and

(3) IC 27-13-9-6, as added by this act, to be included on an enrollee's health maintenance organization benefit card notifying the enrollee of the need to verify, before seeking hospital services, that services provided by health care providers in the hospital are covered under the enrollee's contract with the health maintenance organization.

SECTION 23. [EFFECTIVE UPON PASSAGE] The department of insurance shall, not later than September 30, 2003, adopt rules under IC 4-22-2 to specify a font size as provided in IC 16-21-3-5(1), IC 16-25-5-10(1), IC 16-27-1-18(1), IC 16-28-2-11(1), and IC 25-1-9-20(1), all as added by this act.

SECTION 24. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1128 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 4.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1184, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1195, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 14, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1235, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 25.

Page 2, line 28, delete "JULY 1, 2003]:" and insert "JULY 1, 2004]:".

Page 2, line 38, after "IC 27-8-5-1." insert "**However, the term does not include the following:**

- (1) **Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.**
- (2) **Coverage issued as a supplement to liability insurance.**
- (3) **Worker's compensation or similar insurance.**
- (4) **Automobile medical payment insurance.**
- (5) **A specified disease policy issued as an individual policy.**
- (6) **A limited benefit health insurance policy issued as an individual policy.**
- (7) **A short term insurance plan that:**
 - (A) **may not be renewed; and**
 - (B) **has a duration of not more than six (6) months.**
- (8) **A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of hospital confinement."**

Page 2, line 39, delete "A" and insert "**An insurer that issues a**".

Page 2, line 39, after "must" insert "**offer to**".

Page 2, line 40, after "to a" insert "**medically necessary**".

Page 2, line 42, delete "time determined by the covered individual's" and insert "**length of stay that is:**".

Page 3, delete line 1.

Page 3, line 2, delete "The length of stay is".

Page 3, line 2, delete "." and insert "**; and**".

Page 3, line 3, delete "The attending physician's decision is made:".

Page 3, line 4, delete "(A)".

Page 3, run in lines 3 through 4.

Page 3, line 5, delete "; and" and insert "**and the covered individual's condition."**

Page 3, delete lines 6 through 16.

Page 3, line 17, delete "is required" and insert "**must be offered**".

Page 3, line 25, delete "1, 2003]:" and insert "1, 2004]:".

Page 3, line 29, delete "An" and insert "**A health maintenance organization that enters into an**".

Page 3, line 29, delete "with a health".

Page 3, line 30, delete "maintenance organization".

Page 3, line 31, after "must" insert "**offer to**".

Page 3, line 31, after "a" insert "**medically necessary**".

Page 3, line 33, delete "time determined by the enrollee's attending" and insert "**length of stay that is:**".

Page 3, delete line 34.

Page 3, line 35, delete "The length of stay is".

Page 3, line 35, delete "." and insert "**; and**".

Page 3, line 36, delete "The attending physician's decision is made:".

Page 3, line 37, delete "(A)".

Page 3, run in lines 36 through 37.

Page 3, line 38, delete "; and" and insert "**and the covered individual's condition."**

Page 3, delete lines 39 through 42.

Page 4, delete lines 1 through 7.

Page 4, line 8, delete "is required" and insert "**must be offered**".

Page 4, line 13, delete "2003]" and insert "2004]".

Page 4, line 13, delete "IC 5-10-8-13, as".

Page 4, delete lines 14 through 16.

Page 4, line 17, delete "(b)".

Page 4, run in lines 13 through 17.

Page 4, line 19, delete "2003." and insert "**2004.**".

Page 4, line 20, delete "(c)" and insert "**(b)**".

Page 4, line 22, delete "2003." and insert "**2004.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1235 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 3.

HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1251, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-8-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) As used in this section, "an employee who will work with a vulnerable population" includes any of the following:

(1) A person who has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age.

(2) A person who has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for being harmed or threatened to be harmed set forth in IC 12-10-3-2(a)(3).

(3) A person employed at a state institution managed by the office of the secretary of family and social services.

(b) The secretary shall ensure that:

(1) a limited criminal history background check; and

(2) a sex offender registry check;

is completed for a newly hired employee who will work with a vulnerable population before the employee commences employment. After the checks required by this subsection are completed, the office of the secretary may offer the person provisional employment, subject to a review of the completed national criminal history check under subsection (c) and a determination that the person is suitable to work with a vulnerable population.

(c) The secretary shall ensure that a national criminal history background check (as defined in IC 5-2-5-1) is requested from the state police department with respect to a newly hired employee who will work with a vulnerable population before the employee commences employment. The office of the secretary shall review the completed national criminal history check and determine the suitability of the person to work with a vulnerable population.

(d) A newly hired employee shall pay any fees for the background and sex offender registry checks required under this section.

SECTION 2. [EFFECTIVE JULY 1, 2003] (a) Before December 31, 2005, the office of the secretary of family and social services shall ensure that:

(1) a limited criminal history (as defined in IC 5-2-5-1) check; and

(2) a sex offender registry check;

is completed for any employee who will work with a vulnerable population (as defined in IC 12-8-1-4.5, as added by this act) and who was hired before July 1, 2003.

(b) The state police department may not charge a fee for

responding to a request for the release of a limited criminal history record made by the office of the secretary of family and social services as part of a background investigation of an employee required by this SECTION. The state police department may grant electronic access to the office of the secretary of family and social services to perform a limited criminal history background check of an employee required by this SECTION.

(c) This SECTION expires January 1, 2006.

(Reference is to HB 1251 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1268, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

- (A) IC 35-42-4-1;
- (B) IC 35-42-4-2;
- (C) IC 35-42-4-3;
- (D) IC 35-42-4-4;
- (E) IC 35-42-4-7;
- (F) IC 35-42-4-9;
- (G) IC 35-45-4-1;
- (H) IC 35-45-4-2; or
- (I) IC 35-46-1-3; and

(2) the child needs care, treatment, or rehabilitation that the child:

- (A) is not receiving; and
- (B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as a child who is the victim of a sex offense under:

- (A) IC 35-42-4-1;
- (B) IC 35-42-4-2;
- (C) IC 35-42-4-3;
- (D) IC 35-42-4-4;
- (E) IC 35-42-4-7;
- (F) IC 35-42-4-9;
- (G) IC 35-45-4-1;
- (H) IC 35-45-4-2; or
- (I) IC 35-46-1-3; and

(2) the child needs care, treatment, or rehabilitation that the child:

- (A) is not receiving; and
- (B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 2. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) A rebuttable presumption is raised that a child is a child in need of services if the state establishes that:

(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and

(2) the sex offense described in IC 31-34-1-3:

- (A) was committed by an adult who lives in the household with the child; and
- (B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against

whom the sex offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.

(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be the child in need of services under this section.

(Reference is to HB 1268 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1276, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1367, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 3. IC 35-42-4-5, AS AMENDED BY P.L.118-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

- (A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or
- (B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's

knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct; or
- (3) touches or fondles himself; the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits ~~fondling~~ **performing sexual conduct** in the presence of a minor, a Class D felony."

Page 1, line 16, after "offense" insert "has a prior unrelated conviction:".

Page 2, line 10, delete "has a prior unrelated".

Page 2, line 11, delete "conviction", begin a new line block indented, and insert:

"(1)".

Page 2, line 11, after "(a)" delete "." and insert "or (b); or

- (2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a)."

Page 2, line 34, delete "However, the" and insert "The".

Page 2, line 36, after "." insert "The offense is a Class A misdemeanor if the person appears in or on school grounds, in a public park, or in a department of natural resources owned or managed property with the intent to arouse the sexual desires of the person or another person."

Page 2, line 37, delete "IC 35-45-4-1, as" and insert "IC 35-45-4-1 and IC 35-42-4-5, both as".

Renumber all SECTIONS consecutively.

(Reference is to HB 1367 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1418, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 13.

Renumber all SECTIONS consecutively.

(Reference is to HB 1418 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 4.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1468, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 6 through 17, begin a new paragraph and insert:

"SECTION 2. IC 4-13.6-6-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.7. (a) As used in this section, "Indiana business" refers to any of the following:

- (1) A business whose principal place of business is located in Indiana.
- (2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.
- (3) A business that employs Indiana residents as a majority of its employees.
- (4) A business that makes significant capital investments in

Indiana.

(5) A business that has a substantial positive economic impact on Indiana.

(b) The Indiana department of administration shall consult with the department of commerce in developing criteria for determining whether a business is an Indiana business under subsection (a). The Indiana department of administration may consult with the department of commerce to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(c) There is a price preference of five percent (5%) for a contractor that is an Indiana business.

(d) A contractor who wants to claim a preference provided under this section must state in the contractor's bid that it claims the preference provided by this section.

(e) The division shall compute a preference under this section in the same manner that a preference is computed under IC 5-22-15.

(f) Notwithstanding subsection (c), the division shall award a contract to the lowest responsive and responsible contractor, regardless of the preference provided in this section, if the contractor is:

(1) an Indiana contractor; or

(2) a contractor:

(A) from a state bordering Indiana; and

(B) the contractor's home state does not provide a preference to the home state's contractors more favorable than is provided by Indiana law to Indiana contractors.

SECTION 3. IC 5-22-15-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) As used in this section, "out-of-state business" refers to a business that is not an Indiana business.

(c) A governmental body may adopt rules to give a preference to an Indiana business that submits an offer for a purchase under this article if all of the following apply:

(1) An out-of-state business submits an offer for the purchase.

(2) The out-of-state business is a business from a state that gives purchase preferences unfavorable to Indiana businesses.

(d) Rules adopted under subsection (c) must establish criteria for determining the following:

(1) Whether an offeror qualifies as an Indiana business under the rules.

(2) When another state's preference is unfavorable to Indiana businesses.

(3) The method by which the preference for Indiana businesses is to be computed.

(e) Rules adopted under subsection (c) may not give a preference to an Indiana business that is more favorable to the Indiana business than the other state's preference is to the other state's businesses.

(f) Rules adopted under subsection (c) must provide that a contract shall be awarded to the lowest responsive and responsible offeror, regardless of the preference provided under this section, if the offeror is:

(1) an Indiana business; or

(2) a business:

(A) from a state bordering Indiana; and

(B) the contractor's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

SECTION 4. IC 5-22-15-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

- (3) A business that employs Indiana residents as a majority of its employees.
- (4) A business that makes significant capital investments in Indiana.
- (5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).

(c) The Indiana department of administration shall consult with the department of commerce in developing criteria for determining whether a business is an Indiana business under subsection (a). The Indiana department of administration may consult with the department of commerce to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There is a price preference of five percent (5%) for supplies purchased from an Indiana business.

(e) Notwithstanding subsection (d), a state agency shall award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if the offeror is:

- (1) an Indiana business; or
- (2) a business:
 - (A) from a state bordering Indiana; and
 - (B) the business's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses."

Page 2, delete lines 1 through 30.

Renumber all SECTIONS consecutively.

(Reference is to HB 1468 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1525, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1562, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 6, after "determination." insert "**However, the jury or the court does not need to reconvene to determine whether the person knowingly or intentionally used a firearm or destructive device if the use of a firearm or destructive device was proven beyond a reasonable doubt as an element of the underlying offense.**".

Page 2, between lines 13 and 14, begin a new line block indented and insert:

"(1) Five (5) years if the person has no prior unrelated felony convictions."

Page 2, line 14, delete "(1)" and insert "(2)".

Page 2, line 16, delete "(2)" and insert "(3)".

Page 2, line 18, delete "(3)" and insert "(4)".

Page 2, delete lines 29 through 31.

Page 2, line 32, delete "(j)" and insert "(i)".

(Reference is to HB 1562 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 2.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1662, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1725, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1935, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "IC 5-14-3-3(f)" and insert "**IC 5-14-3-3(f)**".

Page 3, line 13, delete "IC 20-1-1.4-2," and insert "**IC 20-1-1.4-2**".

Page 3, line 14, after "or" insert "**an**".

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 3. IC 4-1-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9. Background Check of Employees of Bodies Corporate and Politic

Sec. 1. This chapter applies only to a body corporate and politic.

Sec. 2. A body corporate and politic shall establish a policy for conducting background checks of persons for purposes of employment with the body corporate and politic.

Sec. 3. A policy adopted under this chapter may not be less stringent than a background check policy implemented by the state personnel department for employment with a state agency that is subject to the jurisdiction of the state personnel department."

Page 4, line 9, delete "other" and insert "**another**".

Page 4, line 10, delete ", legislative,".

Page 4, line 11, after "government," insert "**the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency,**".

Page 4, delete lines 20 through 32.

Page 4, line 35, after "14.5." insert "**(a)**".

Page 4, line 39, delete "state" and insert "**state, or as an employee of a contractor of the state,**".

Page 5, line 4, delete "threatened to" and insert "**threatened with harm**".

Page 5, line 5, delete "be harmed".

Page 5, line 20, after "fingerprints" insert "**in an appropriate format or**".

Page 5, line 27, after "department" insert "**or the agency to which the applicant is applying for employment or a license**".

Page 5, between lines 28 and 29, begin a new paragraph and insert:

"(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

SECTION 6. IC 5-14-3-2, AS AMENDED BY P.L.90-2002,

SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

- (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or
- (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

- (1) Manually transcribe and make notes, abstracts, or memoranda.
- (2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.
- (3) In the case of public records available:
 - (A) by enhanced access under section 3.5 of this chapter; or
 - (B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

- (4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(d).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

- (1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.
- (2) Any:
 - (A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;
 - (B) political subdivision (as defined by IC 36-1-2-13); or
 - (C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.
- (3) Any entity or office that is subject to:
 - (A) budget review by either the department of local government finance or the governing body of a county, city,

town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, ~~used~~, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter."

Page 6, line 22, after "map" insert ".".

Page 6, line 22, strike "(as defined by IC 5-14-3-2)".

Page 6, line 29, strike "(as)".

Page 6, line 30, strike "defined in IC 5-14-3-2)".

Page 8, strike lines 18 through 22.

Page 8, line 23, strike "(12)" and insert "(11)".

Page 8, delete line 25.

Page 10, block indent lines 36 through 38.

Page 11, delete lines 8 through 34, begin a new line block indented and insert:

"(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes; and

(H) the emergency contact information of emergency responders and volunteers.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address."

Page 12, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 9. IC 5-14-3-9, AS AMENDED BY P.L.191-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(d) This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be exempted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established under IC 4-3-20. If an agency denies the disclosure of a record or a part of a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

(1) that a request for release of the public record has been denied; and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

(f) The court shall determine the matter de novo, with the

burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

(i) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) A court shall expedite the hearing of an action filed under this section.

SECTION 10. IC 9-14-3-5, AS AMENDED BY P.L.225-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), (c), or (d), the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be submitted in writing to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau ~~may~~ **shall** not disclose the:

(1) Social Security number;

(2) federal identification number;

(3) driver's license number; ~~or~~

(4) digital image of the driver's license applicant; ~~or~~

(5) medical or disability information;

of any person except to a law enforcement officer or an agent or a designee of the department of state revenue **or for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9).**

(c) As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

(d) The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection (c)) to sign a voter registration application, except as authorized under IC 3-7-14."

Page 14, line 33, delete "if:" and insert **"if the person requesting the information:"**.

Page 14, line 34, delete "the person requesting the information".

Page 15, between lines 8 and 9, begin a new paragraph and insert:

"(c) For purposes of this section, "survey" does not include

data or information that is generated, collected, or transferred under IC 16-21-6-7 or IC 16-39-5-3."

Page 15, line 13, delete "IC 16-41-8-1," and insert **"IC 16-41-8-1 or data or information that is confidential under IC 16-21-6-7 or IC 16-39-5-3."**

Renummer all SECTIONS consecutively.
(Reference is to HB 1935 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1939, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 33, strike "For property or proceeds related to child support held".

Page 4, strike lines 34 through 35.

Page 7, line 27, delete "attorney general shall".

Page 7, line 28, delete "publish".

Page 7, line 28, reset in roman "must be published at least".

Page 7, reset in roman line 29.

Page 7, line 30, reset in roman "circulation published".

Page 7, line 30, delete "through a medium determined by the attorney".

Page 7, line 31, delete "general".

Page 8, line 22, delete "(b)" and insert "(b)".

Page 8, line 22, strike "and".

Page 8, line 23, after "(c)," insert **"and (f)."**

Page 8, line 33, reset in roman "in a newspaper of general circulation".

Page 8, line 34, reset in roman "published".

Page 8, line 34, after "sold." delete "The".

Page 8, delete lines 35 through 36.

Page 9, between lines 23 and 24, begin a new paragraph and insert:

"(f) If property is forwarded to the attorney general and the property does not have any of the information required under section 26(b)(1) of this chapter or the property has a value of ten dollars (\$10) or less in total, the attorney general may immediately:

(1) sell the property and transmit the proceeds; or

(2) transfer the property;

to the common school fund.

SECTION 7. IC 32-34-1-32, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) The property custody fund is established. **Except as provided in section 31(f) of this chapter,** any money received by the attorney general under section 39(b) of this chapter shall be delivered to the treasurer of state for deposit in the property custody fund. Subject to any claim of the owner allowed by the attorney general under this chapter, the money shall be held in the property custody fund for safekeeping until the date the money is presumed abandoned under sections 20 and 24 of this chapter and transferred to the abandoned property fund established by section 33 of this chapter in accordance with this section.

(b) The attorney general shall specify in the notice required by section 28 of this chapter the latest date the apparent owner may claim the property from the property custody fund. Notice must also be mailed to each person having a last known address listed in the report to the attorney general filed under section 26 of this chapter.

(c) Except as provided in subsection (d), not later than twenty-five (25) days after the date specified in the notice published under subsection (b), the treasurer of state, upon order of the attorney general, shall transfer the principal of the property to which the notice relates from property custody fund to the abandoned property fund.

(d) The attorney general may allow a claim of the apparent owner before the principal of the property in the property custody fund is

transferred to the abandoned property fund under subsection (c). After the elapse of the twenty-five (25) days referred to in subsection (c), the funds are considered abandoned property instead of property received under section 39(b) of this chapter for purposes of this chapter.

SECTION 8. IC 32-34-1-33, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. (a) The abandoned property fund is established. Except as provided in subsection (b) and **section sections 31 and 32** of this chapter, money received by the attorney general under this chapter, including the proceeds from the sale of abandoned property under section 31 of this chapter, shall be transferred by the attorney general to the treasurer of state for deposit in the abandoned property fund.

(b) Money received under this chapter that was originally drawn from a fund under the control of a local unit of government shall be transferred to the fund from which the money was originally drawn".

Page 9, line 26, delete "A" and insert **"Except as provided in subsection (f), a"**.

Page 10, between lines 11 and 12, begin a new paragraph and insert:

"(f) The attorney general may pay over or deliver to the owner the property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter, without the owner filing a claim under subsection (a) if the attorney general identifies the owner."

Renummer all SECTIONS consecutively.

(Reference is to HB 1939 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1946, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 14, delete "and".

Page 2, line 16, delete "." and insert **"; and**

(3) conduct a criminal history background check of each individual who registers under this chapter."

(Reference is to HB 1946 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 2008, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-3.4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The value added research fund is established for the purpose of providing money for the center for value added research and the commissioner of agriculture to carry out the duties specified under this chapter. The fund shall be administered by the commissioner of agriculture.

(b) The fund consists of money appropriated by the general assembly.

(c) The treasurer of state shall invest the money in the fund not

currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) In addition to any other appropriation made for the purposes of the fund, the lesser of the amount transferred to the fund under IC 4-4-32 or six hundred thousand dollars (\$600,000) is annually appropriated from the fund for the purposes of the fund in each of the state fiscal years beginning after June 30, 2003, and ending before July 1, 2013. The spending authority granted by an appropriation under this section does not expire at the end of the state fiscal year for which the appropriation is made but remains available for expenditure from the fund in any state fiscal year that ends before July 1, 2013.

SECTION 2. IC 4-4-5.1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "authority" refers to the Indiana development finance authority established by IC 4-4-11-4.**

SECTION 3. IC 4-4-5.1-3, AS ADDED BY P.L.190-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) The Indiana twenty-first century research and technology fund is established to provide grants or loans to support proposals for economic development in one (1) or more of the following areas:**

(1) To increase the capacity of Indiana institutions of higher education, Indiana businesses, and Indiana nonprofit corporations and organizations to compete successfully for federal or private research and development funding.

(2) To stimulate the transfer of research and technology into marketable products.

(3) To assist with diversifying Indiana's economy by focusing investment in biomedical research and biotechnology, information technology, and other high technology industry clusters requiring high skill, high wage employees.

(4) To encourage an environment of innovation and cooperation among universities and businesses to promote research activity.

(b) ~~The fund shall be administered by the budget agency authority.~~ The fund consists of appropriations from the general assembly and gifts and grants to the fund. ~~The budget agency board shall review each recommendation; approve and recommend applications to the budget committee.~~ **The budget agency authority, after review by the budget committee, may approve, deny, or modify grants and loans recommended by the board. Money in the fund may not be used to provide a recurring source of revenue for the normal operating expenditures of any project.**

(c) ~~The treasurer of state authority shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested; conformity with IC 4-4-11 and the investment policy established by the authority.~~

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter.

SECTION 4. IC 4-4-5.1-5, AS ADDED BY P.L.190-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) The board has the following powers:**

(1) To accept, analyze, and approve applications under this chapter.

(2) To contract with experts for advice and counsel.

(3) To employ staff to assist in carrying out this chapter, including providing assistance to applicants who wish to apply for a grant or loan from the fund, analyzing proposals, working with experts engaged by the board, and preparing reports and recommendations for the board.

(4) To approve and recommend applications for grants or loans from the fund to the budget committee and ~~budget agency; the authority.~~

(b) The board shall give priority to applications for grants or loans from the fund that:

- (1) have the greatest economic development potential; and
- (2) require the lowest ratio of money from the fund compared with the combined financial commitments of the applicant and those cooperating on the project.

(c) The board shall make final funding determinations for applications for grants or loans from the fund that will be submitted to the budget agency **for approval, the budget committee** for review, and **the authority** for approval. In making a determination on a proposal intended to obtain federal or private research funding, the board shall be advised by a peer review panel and shall consider the following factors in evaluating the proposal:

(1) The scientific merit of the proposal.

(2) The predicted future success of federal or private funding for the proposal.

(3) The ability of the researcher to attract merit based scientific funding of research.

(4) The extent to which the proposal evidences interdisciplinary or inter-institutional collaboration among two (2) or more Indiana institutions of higher education or private sector partners, as well as cost sharing and partnership support from the business community.

(d) The peer review panel shall be chosen by and report to the board. In determining the composition and duties of a peer review panel, the board shall consider the National Institutes of Health and the National Science Foundation peer review processes as models. The members of the panel must have extensive experience in federal research funding. A panel member may not have a relationship with any private entity or academic institution in Indiana that would constitute a conflict of interest for the panel member.

(e) In making a determination on any other application for a grant or loan from the fund involving a proposal to transfer research results and technologies into marketable products or commercial ventures, the board shall consult with experts as necessary to analyze the likelihood of success of the proposal and the relative merit of the proposal.

SECTION 5. IC 4-4-5.1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.5. (a) This section applies to a meeting of the board at which at least four (4) members of the board are physically present at the place where the meeting is conducted.**

(b) A member of the board may participate in a meeting of the board by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

SECTION 6. IC 4-4-5.1-11, AS ADDED BY P.L.190-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. The board may use money in the fund to cover administrative expenses incurred in carrying out the requirements of this chapter, including the following administrative expenses:**

(1) Staff salaries.

(2) Professional fees.

(3) Office expenses.

(4) Training expenses.

(5) Expenses for studies.

(6) Educational programs or conferences that will assist applicants or awardees.

SECTION 7. IC 4-4-5.1-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 12. The board shall submit an annual report to the legislative council before September 1. The report shall contain the following information concerning fund activity in the preceding state fiscal year:

- (1) The name of each entity receiving a grant from the fund.
- (2) The location of each entity sorted by:
 - (A) county, in the case of an entity located in Indiana; or
 - (B) state, in the case of an entity located outside Indiana.
- (3) The amount of each grant awarded to each entity.

SECTION 8. IC 4-4-9.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9.3. Rural Development Administration Fund

Sec. 1. (a) The rural development administration fund is established for the purpose of enhancing and developing rural communities. The fund shall be administered by the Indiana rural development council.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 2. (a) Money in the fund may be used for the following purposes:

- (1) To create, assess, and assist a pilot project to enhance the economic and community development in a rural area.
- (2) To establish a local revolving loan fund for an industrial, a commercial, an agricultural, or a tourist venture.
- (3) To provide a loan for an economic development project in a rural area.
- (4) To provide technical assistance to a rural organization.
- (5) To assist in the development and creation of a rural cooperative.
- (6) To address rural workforce development challenges.
- (7) To assist in addressing telecommunications needs in a rural area.

(b) Expenditures from the fund are subject to appropriation by the general assembly and approval by the Indiana rural development council under IC 4-4-9.5. The council may not approve an expenditure from the fund unless the rural development administration advisory board established by section 3 of this chapter has recommended the expenditure.

Sec. 3. (a) The rural development administration advisory board is established to make recommendations concerning the expenditure of money from the fund.

(b) The advisory board shall meet at least four (4) times per year and shall also meet at the call of the executive director of the rural development council.

(c) The advisory board consists of the following members:

- (1) The executive director of the Indiana rural development council, who serves as an ex officio member and as the chairperson of the advisory board.
- (2) Two (2) members of the senate, who may not be members of the same political party, and who are appointed by the president pro tempore of the senate.
- (3) Two (2) members of the house of representatives, who may not be members of the same political party, and who are appointed by the speaker of the house of representatives.
- (4) A representative of the commissioner of agriculture, to be appointed by the governor.
- (5) A representative of the department of commerce, to be appointed by the governor.
- (6) A representative of the department of workforce

development, to be appointed by the governor.

(7) Two (2) persons with knowledge and experience in state and regional economic needs, to be appointed by the governor.

(8) A representative of a local rural economic development organization, to be appointed by the governor.

(9) A representative of a small town or rural community, to be appointed by the governor.

(10) A representative of the rural development council, to be appointed by the governor.

(11) A representative of rural education, to be appointed by the governor.

(12) A representative of the league of regional conservation and development districts, to be appointed by the governor.

(13) A person currently enrolled in rural secondary education, to be appointed by the governor.

(d) The members of the advisory board listed in subsection (c)(1) through (c)(3) are nonvoting members.

(e) The term of office of a legislative member of the advisory board is four (4) years. However, a legislative member of the advisory board ceases to be a member if the member:

- (1) is no longer a member of the chamber from which the member was appointed; or
- (2) is removed from the advisory board by the appointing authority who appointed the legislator.

(f) The term of office of a voting member of the advisory board is four (4) years. However, these members serve at the pleasure of the governor and may be removed for any reason.

(g) If a vacancy exists on the advisory board, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy for the balance of the unexpired term.

(h) Six (6) voting members of the advisory board constitute a quorum for the transaction of business at a meeting of the advisory board. The affirmative vote of at least six (6) voting members is necessary for the advisory board to take action.

Sec. 4. In addition to any other appropriation made for the purposes of the fund, the lesser of the amount transferred to the fund under IC 4-4-32 or two million four hundred thousand dollars (\$2,400,000) is annually appropriated from the fund for the purposes of the fund in each of the state fiscal years beginning after June 30, 2003, and ending before July 1, 2013. The spending authority granted by an appropriation under this section does not expire at the end of the state fiscal year for which the appropriation is made but remains available for expenditure from the fund in any state fiscal year that ends before July 1, 2013.

SECTION 9. IC 4-4-9.5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The rural development council fund is established to be used exclusively for the purposes set forth in sections 2 and 3 of this chapter. The fund shall be administered by the council.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) In addition to any other appropriation made for the purposes of the fund, the lesser of the amount transferred to the fund under IC 4-4-32 or one million two hundred thousand dollars (\$1,200,000) is annually appropriated from the fund for the purposes of the fund in each of the state fiscal years beginning after June 30, 2003, and ending before July 1, 2013. The spending authority granted by an appropriation under this section does not expire at the end of the state fiscal year for

which the appropriation is made but remains available for expenditure from the fund in any state fiscal year that ends before July 1, 2013.

SECTION 10. IC 4-4-10.9-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. "Accredited investor" has the meaning set forth in IC 4-4-11.7-1.**

SECTION 11. IC 4-4-10.9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. "Business" means a partnership, a firm, an association, a joint venture, a limited liability company, a limited liability partnership, or a corporation.**

SECTION 12. IC 4-4-10.9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. "Contracting party" means any party to a lease, sales contract, co-venture investment agreement (whether in the form of a loan, loan guarantee, or pool participation agreement), or loan agreement other than the authority.**

SECTION 13. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Co-venture investment loan" means a venture capital or seed capital investment in the form of a loan by the authority that is made to a business after or in conjunction with equity investments by one (1) or more professional or accredited investors that have made or are making equity investments in the business.**

SECTION 14. IC 4-4-10.9-6.2, AS AMENDED BY P.L.4-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.2. (a) "Educational facility project" includes:**

(1) the acquisition of land, site improvements, infrastructure improvements, buildings, or structures, the rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these):

(A) comprising or being functionally related and subordinate to any aquaria, botanical societies, historical societies, libraries, museums, performing arts associations or societies, scientific societies, zoological societies, and independent elementary, secondary, or postsecondary schools (or any combination of these) that engages in the cultural, intellectual, scientific, educational, or artistic enrichment of the people of the state the development or expansion of which serves the purposes set forth in IC 4-4-11-2;

(B) is not used or to be used primarily for sectarian instruction or study or as a place for devotional activities; and

(C) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination; or

(2) funding (including reimbursement or refinancing) by a nonprofit organization described in subsection (b) of:

(A) real property and improvements;

(B) personal property; or

(C) noncapital costs to fund a judgment, a settlement, or other cost or liability. ~~other than an ordinary and recurring operating cost or expenditure.~~

(b) For purposes of subsection (a)(2), a nonprofit organization must be:

(1) qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(2) have headquarters or a primary educational or exhibit facility located on property owned by or titled in the name of the state of Indiana or an agency, a commission, or an instrumentality of the state of Indiana that serves the purposes set forth in IC 4-4-11-2.

SECTION 15. IC 4-4-10.9-9.5, AS ADDED BY P.L.227-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.5. "High growth company with high skilled jobs" means a company that satisfies all of the following conditions:**

(1) The company:

(A) had at least a ~~fifteen ten percent (15%) (10%)~~ average annual growth in company ~~earnings~~ **gross revenue** during the past three (3) years;

(B) is entering a new product or process area; or

(C) is classified in an industry that had at least a ~~fifteen ten percent (15%) (10%)~~ average annual growth in ~~earnings~~ **gross revenue** during the past three (3) years.

(2) The company has a substantial number of employees in jobs:

(A) requiring post-secondary education or its equivalent; or
(B) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor.

(3) The company has a substantial number of employees that earn at least one hundred fifty percent (150%) of Indiana per capita personal income.

SECTION 16. IC 4-4-10.9-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15.5. "Loan guarantee" means, in addition to the guaranty program, a loan guarantee provided to professional or accredited investors from the Indiana venture fund under IC 4-4-11.7.**

SECTION 17. IC 4-4-10.9-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24.5. "Professional investor" means a bank, a bank holding company, a savings institution, a trust company, a credit union, an insurance company, an investment company registered under the federal Investment Company Act of 1940, a pension or profit sharing trust, another financial institution or institutional buyer, a licensee under the federal Small Business Investment Act of 1958, et seq., or any person, partnership, or other entity whose:**

(1) principal business is making venture capital investments; and

(2) net worth exceeds two hundred fifty (\$250,000) thousand dollars.

SECTION 18. IC 4-4-10.9-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 26.5. "Seed capital" means financing that is provided for:**

(1) the applied research, development, testing, and initial marketing of a technology, product, process, or invention;

(2) company formation;

(3) intellectual property protection and acquisition; and

(4) associated working capital.

SECTION 19. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Technology commercialization project" means any combination of:**

(1) applied research, development, testing, and initial marketing of a technology, a product, a process, or an invention and associated working capital, including the hiring of professionals;

(2) the development of a technology, product, process, or invention; and

(3) rehabilitation, creation, or enhancement of research facilities, renovation, and enlargement of buildings and structures, machinery, equipment, or supplies;

comprising or being functionally related or subordinate to any project, the development or expansion of which serves the public purposes set forth in IC 4-4-11-2.

SECTION 20. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Venture capital" means financing that is provided for the capital needs of a business that is developing a new technology, product, process, or invention.**

SECTION 21. IC 4-4-11-2, AS AMENDED BY P.L.4-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a) The legislature makes the following findings of fact:**

(1) That there currently exists in certain areas of the state

critical conditions of unemployment, **lack of adequate capital for research and technology commercialization**, or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation contamination, and noise pollution, and that these conditions may well exist, from time to time, in other areas of the state.

(2) That in some areas of the state such conditions are chronic and of long standing and that without remedial measures they may become so in other areas of the state.

(3) That economic insecurity due to unemployment, **inadequate capital**, or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

(A) the promotion, attraction, stimulation, rehabilitation, and revitalization of industrial development projects, **technology commercialization projects**, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products;

(B) the promotion and stimulation of international exports; and

(C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, **technology commercialization projects**, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers, **professional investors**, insurance companies, other financial institutions, and individuals into such industrial development projects, **technology commercialization projects**, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans, **loan guarantees**, **co-venture investment loans**, or leases for creation or expansion of industrial development projects, **technology commercialization projects**, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in ~~the general economic development of the state:~~ **in Indiana.**

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects promoting a substantial likelihood of opportunities for:

(A) gainful employment;

(B) business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the removal or treatment of any substances in materials being processed that otherwise would cause pollution when

used; or

(F) increased options for and availability of child care; will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana development finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, **technology commercialization projects**, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well being of the people of the state by the promotion and development of industrial development projects; ~~and~~

(5) promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities; ~~and~~

(6) promoting research, innovation, technology transfer, and technology commercialization by the promotion, development, and assistance of technology commercialization projects.

SECTION 22. IC 4-4-11-15, AS AMENDED BY P.L.4-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under this chapter, **IC 4-4-11.5**, **IC 4-4-21**, **IC 4-4-26**, **IC 13-19-5**, and **IC 15-7-5**, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter, **IC 4-4-11.5**, **IC 4-4-21**, **IC 4-4-26**, **IC 13-19-5**, and **IC 15-7-5** and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, **IC 4-4-11.5**, **IC 4-4-21**, **IC 4-4-26**, **IC 13-19-5**, and **IC 15-7-5**.

(7) Employ architects, engineers, attorneys, **financial advisers**, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by this chapter, IC 4-4-21, **IC 13-19-5**, and IC 15-7-5.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including borrowers, lenders, developers, **professional or accredited investors**, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5), industrial development project, **technology commercialization project**, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to this chapter, IC 4-4-21, and IC 15-7-5.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, **technology commercialization projects**, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) Invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state, or any obligations or securities which may from time to time be legally purchased

by governmental subdivisions of this state pursuant to IC 5-13, or any obligations or securities which are permitted investments for bond proceeds or any construction, debt service, or reserve funds secured under the trust indenture or resolution pursuant to which bonds are issued.

(18) Collect fees and charges, as the authority determines to be reasonable, in connection with its loans, **co-venture investment loans and loan guarantees**, guarantees, advances, insurance, commitments, and servicing.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of this chapter, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, or IC 15-7-5.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project **or technology commercialization project** when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund **or the Indiana venture fund**, and sell, or on a temporary basis, lease, or rent such industrial development project **or technology commercialization project** for any use.

(23) Expend money, as the authority considers appropriate, from the industrial development project guaranty fund created by section 16 of this chapter **and the Indiana venture fund established by IC 4-4-11.7-5**.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; ~~or~~

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2); ~~or~~

(C) **eligible expenditures for a technology commercialization project;**

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender **or professional or accredited investor** for the purpose of:

(A) furnishing funds to such lender **or investor** to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter; **or**

(B) **making capital available to an eligible technology commercialization project.**

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt ~~rules~~ **guidelines**, **without complying with IC 4-22-2**, governing its activities authorized under this

chapter, IC 4-4-21, **IC 4-4-11.7**, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5.

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.

(34) Sell and guarantee securities.

(35) Make guaranteed participating loans under IC 4-4-21-26.

(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.

(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of this chapter or IC 4-4-21.

(38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.

(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) **Make direct loans and co-venture investment loans and loan guarantees to professional and accredited investors to provide seed and venture capital to technology commercialization projects.**

(47) **Through administration of the twenty-first century research and technology fund and the Indiana venture fund, award grants to and enter into contracts with universities and research institutions to:**

(A) **increase the capacity of Indiana institutions of higher education, Indiana businesses, and Indiana nonprofit corporations and organizations to compete successfully for federal and private research and development funds;**

(B) **stimulate the transfer of research and technology into marketable products;**

(C) **assist with diversifying Indiana's economy by focusing investment on biomedical research, biotechnology, information technology, and other high technology industry clusters requiring high skill, high wage employees; and**

(D) **encourage an environment of innovation and cooperation among universities and businesses to promote research.**

(48) Do any act necessary or convenient to the exercise of the powers granted by this chapter, **IC 4-4-11.5**, **IC 4-4-21**, **IC 4-4-26**, **IC 13-19-5**, or IC 15-7-5, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted

broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

SECTION 23. IC 4-4-11-16.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.3. To further the purposes of this chapter, and in addition to the authority's other powers under this chapter, the authority may transfer funds:

(1) from the industrial development guaranty project fund to the capital access account established by IC 4-4-26-37; **and**

(2) **from the business development loan fund (IC 4-4-11-16.5) to the Indiana venture fund established by IC 4-4-11-7-5.**

SECTION 24. IC 4-4-11.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11.7. Indiana Venture Fund

Sec. 1. As used in this chapter, "accredited investor" means an investor who meets the most current definition of accredited investor as defined:

(1) **in the federal Securities Act of 1933; or**

(2) **by the Securities and Exchange Commission.**

Sec. 2. As used in this chapter, "advisory board" refers to the advisory board established by section 11 of this chapter.

Sec. 3. As used in this chapter, "authority" refers to the Indiana development finance authority established by IC 4-4-11-4.

Sec. 4. As used in this chapter, "fund" refers to the Indiana venture fund established by section 5 of this chapter.

Sec. 5. The Indiana venture fund is established for the purposes described in section 10 of this chapter. The fund shall be administered by the authority separately from the state treasury.

Sec. 6. The expenses of administering the fund shall be paid from money in the fund.

Sec. 7. The authority shall invest the money in the fund not currently needed to meet the obligations of the fund in conformity with IC 4-4-11 and the investment policies established by the authority. Interest that accrues from these investments shall be deposited in the fund.

Sec. 8. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. The authority may accept:

(1) **grants;**

(2) **loans;**

(3) **subsidies;**

(4) **matching funds;**

(5) **reimbursements;**

(6) **appropriations;**

(7) **transfers of appropriations;**

(8) **bond proceeds from tobacco securitization;**

(9) **federal grant money;**

(10) **income derived from investments; or**

(11) **other things of value from:**

(A) **the federal government or state governments;**

(B) **any agency of any other state; or**

(C) **any institution, person, firm, or corporation, public or private;**

for deposit in the fund.

Sec. 10. The authority may invest and reinvest the fund and the income from money in the fund as follows:

(1) **To make a direct loan to a technology commercialization project to provide seed capital or venture capital. A direct loan under this subdivision may not exceed the lesser of the following:**

(A) **Forty percent (40%) of the estimated cost of the initial funding for the project (including development, testing, initial production and marketing, company formation, intellectual property protection and acquisition, and associated working capital for the**

technology, product, process, or invention).

(B) Six hundred thousand dollars (\$600,000).

(2) To make direct or co-venture investments in the form of loans or loan guarantees by entering into agreements with one (1) or more professional or accredited investors who have formally agreed to invest at least as much as the authority invests in a technology commercialization project to provide venture capital or seed capital. Not more than one million dollars (\$1,000,000) may be loaned or guaranteed by the authority to any single business under this subdivision. However, an amount not exceeding an additional five hundred thousand dollars (\$500,000) may be loaned or guaranteed to the single business if the authority finds, after the initial investment by the authority, that additional investments in the business are necessary to protect or enhance the initial investment of the authority. Each co-venture investment agreement must provide that the authority is to recover its investment before or simultaneously with any distribution to participating professional or accredited investors. The agreement must provide that the authority and participating professional or accredited investors are to share ratably in the profits earned in any form on the co-venture investment.

(3) To enter into written agreements or with one (1) or more professional investors to establish a pool of funds to be used exclusively as venture capital or seed capital investments. The authority may not invest more than two million dollars (\$2,000,000) in a single pool of funds or in affiliated pools of funds. The agreement or contract must provide for the pool of funds to be managed by a professional investor. The authority must specifically find that the professional investor meets the requirements of IC 4-4-10.9-24.5 and is competent to adequately monitor the pool. The authority may, by guideline, limit or decline investment in funds that are not Indiana or Midwest based. The authority may also limit or decline investment in funds that do not commit to investing in Indiana companies. The pool agreement or contract may provide for reimbursement of expenses of, and payment of a fee to, the manager. The agreement or contract may also provide for payment to the manager of a percentage, not to exceed forty percent (40%) (computed on an annual basis), of cash and other property payable to the authority as its pro rata share of distributions to investors in the pool of funds. However, either:

(A) no amount shall be received by the manager upon sale or other disposition of assets of the pool until recovery by the authority of its investment, and upon liquidation or withdrawal of the authority from the pool of funds, the manager shall be obligated to refund any amount received by it from the manager's percentage if necessary to allow the authority to recover its investment; or

(B) the terms of payment of cash and other property to the authority must not be less favorable to the authority than payments to other investors (other than the manager) who are parties to the agreement or contract.

Sec. 11. A seven (7) member advisory board shall evaluate applications for loans or co-venture investments in the form of loans or guarantees in accordance with the criteria established in this chapter and any guidelines issued by the authority.

Sec. 12. The advisory board consists of the following:

(1) Three (3) members of the authority, other than the lieutenant governor or the lieutenant governor's designee, selected by the governor.

(2) Three (3) members of the twenty-first century research and technology fund board established by IC 4-4-5.1-6, other than the lieutenant governor or the lieutenant governor's designee, selected by the governor.

(3) The lieutenant governor or the lieutenant governor's designee.

A member selected by the governor under this section serves at

the pleasure of the governor.

Sec. 13. The lieutenant governor or the lieutenant governor's designee shall serve as chair of the advisory board.

Sec. 14. The advisory board shall make recommendations to the authority, which shall make the final determination regarding investments.

Sec. 15. The advisory board shall keep the twenty-first century research and technology fund board apprised of its recommendations.

Sec. 16. The advisory board may request that the authority consult with and hire professionals on its behalf as the authority considers necessary to evaluate applications. The professionals may be compensated from the fund or the applicant, or both.

Sec. 17. (a) The advisory board is subject to IC 5-14-1.5.

(b) Subsections (c) through (e) apply to a meeting of the advisory board at which at least four (4) members of the advisory board are physically present at the place where the meeting is conducted.

(c) A member of the advisory board may participate in a meeting of the advisory board by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (c); and

(3) was absent.

Sec. 18. Members of the advisory board who have a conflict with respect to a particular application, whether due to a relationship with the business or the professional investor, must abstain from discussion and voting on the application.

Sec. 19. Members of the advisory board are not entitled to receive per diem. The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 20. Each co-venture investment loan or guarantee or pool participation agreement shall provide that the authority must be repaid before or simultaneously with any distribution to participating professional or accredited investors. The authority and participating professional or accredited investors must share ratably in the profits earned in any form on the co-venture investment. Unless the investment is a pooled investment, the agreement must also provide that the professional or accredited investor must share its initial due diligence report on the business and any subsequent analysis of and information received about the business.

Sec. 21. An application for a direct loan or a co-venture investment loan or guarantee from the fund must include the following:

(1) Payment of a fee, as determined by the authority.

(2) A business plan, including a description of the business and its management.

(3) A statement of the amount, timing, and projected use of the capital required.

(4) A statement concerning the feasibility of the proposed technology, product, process, or invention, its state of development, and the likelihood of commercial success (including intellectual property protection and licensing arrangements for technologies).

(5) A statement of the potential economic impact of the business on Indiana, including the number, location, and

types of jobs expected to be created.

(6) Financial projections.

(7) A listing of business and legal advisors engaged.

(8) Any other information that the authority or the advisory board requires.

Sec. 22. In addition to consideration of the information provided under section 21 of this chapter, the advisory board shall consider the following factors in making its recommendation to the authority:

(1) Whether the business has a reasonable chance of success.

(2) Whether the technology, product, process, or invention for which the loan is being made is feasible and has the potential to achieve commercial success.

(3) Whether the entrepreneur, investors, shareholders, and other founders of the business have already made or are obligated in writing to make a substantial financial and time commitment to the enterprise.

Sec. 23. After the authority receives the recommendation under section 22 of this chapter, the authority may approve an application for a direct loan or co-venture investment loan or guarantee only if the authority reviews the factors described in section 22 of this chapter, the authority makes findings in the affirmative relative to the factors described in section 22 of this chapter, and the following have occurred:

(1) The authority determines that there is a reasonable possibility that the authority will recoup its investment within:

(A) ten (10) years after making the investment; or

(B) another period negotiated by the authority;

through the receipt of principal and interest payments or other distribution of profits or royalties on investments made by the authority.

(2) Binding commitments have been made to the authority by the enterprise for adequate reporting of financial data to the authority and any participating professional investors. The report must include an annual audit of the books of the enterprise by an independent certified public accountant if required by the authority. The report must be prepared in accordance with generally accepted accounting principles. The authority and any participating professional or accredited investors shall secure sufficient contractual rights from the business as the authority shall consider prudent to protect the investment of the authority, including, at the discretion of the authority and without limitation, a right of access to financial and other records of the business.

(3) If the loan is a co-venture investment loan or guarantee, a binding commitment has been made to the business from a participating professional or accredited investor in at least the amount requested by the authority and the authority has a written commitment from the participating professional or accredited investor that the authority is to be repaid on its co-venture investment loan or guarantee before or simultaneously with any distribution to participating professional investors.

(4) The authority has:

(A) received a copy of the professional or accredited investor's due diligence report on the business, including its analysis of the factors in section 22 of this chapter and this section; and

(B) determined the report to be adequate.

(5) The authority must find that the professional or accredited investor meets the respective definition in IC 4-4-10.9-0.5 or IC 4-4-10.9-24.5 and that the professional or accredited investor is competent and adequately prepared to monitor the progress of the business.

(6) If the co-venture investment is in the form of a loan guarantee, the authority must make the following additional findings:

(A) Sufficient reserves exist in the fund to support the

loan guarantee.

(B) The professional or accredited investor to whom the guarantee is provided has made a commitment to keep the authority informed on all aspects of the business receiving the investment.

Sec. 24. The authority, with recommendations from the advisory board, may invest money in the fund in accordance with the investment guidelines established by the authority. IC 4-22-2 does not apply to these guidelines.

Sec. 25. Applicants that have received:

(1) prior funding from the twenty-first century research and technology fund; or

(2) favorable reviews during the peer review process conducted on an application for funding from the twenty-first century research and technology fund;

shall receive preference from the advisory board during the application review process. The authority may, by guideline, require that all applicants meet the requirement of either subdivision (1) or (2).

Sec. 26. The authority's interest in any single business in the form of a loan or co-venture investment loan or guarantee may not represent more than forty percent (40%) of the capitalization of the business.

Sec. 27. Any documentary materials or data made or received by any member, agent, or employee of the authority, to the extent that the material or data consist of trade secrets, commercial information, or financial information regarding:

(1) the operation of any business conducted by an applicant for, or recipient of, any form of assistance which the authority is empowered to render; or

(2) the competitive position of the business in a particular field of endeavor;

are confidential. Any discussion or consideration of the trade secrets or commercial or financial information may be held by the advisory board or the authority in executive sessions under IC 5-14-1.5-6.1 if notice of the executive session is properly posted.

Sec. 28. Proposals for the establishment of pools of funds must:

(1) be submitted on a form; and

(2) contain the information;

prescribed by the authority.

Sec. 29. The authority may not enter into any agreement or contract regarding a pool of funds unless the agreement or contract provides that the pool of funds is to be invested in an enterprise only if the professional investor or manager finds all the following:

(1) The enterprise has a reasonable chance of success.

(2) The technology, product, process, or invention for which the investment is being made is feasible and has the potential to achieve commercial success.

(3) The entrepreneur, investors, shareholders, or founders of the enterprise have made or are obligated to make a substantial commitment of time and funds to the enterprise.

(4) That there is a reasonable opportunity that it will recoup their investment within ten (10) years after the investment, through the receipt of principal and interest, dividends, capital gains, or other distributions of profit or royalties.

(5) The enterprise has made binding commitments for adequate reporting of and access to financing data of the enterprise.

Sec. 30. The fund and all proceeds of the fund are public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. However, this exemption does not exempt an enterprise in which the authority has invested from state taxes or other taxes levied in connection with the manufacture, production, use, or sale of any technologies, products, processes, or inventions that are the subject of an

agreement.

SECTION 25. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31. Tobacco Settlement Authority

Sec. 1. As used in this chapter, "authority" refers to the tobacco settlement authority created in this chapter.

Sec. 2. As used in this chapter, "board" refers to the governing board of the authority.

Sec. 3. As used in this chapter, "bonds" means bonds, notes, and any other obligations and financing arrangements issued or entered into by the authority under this chapter and any such bonds, notes, obligations, or other financing arrangements entered into to refund the foregoing, whether on a current or an advance basis.

Sec. 4. As used in this chapter, "financing costs" means capitalized interest, capitalized operating expenses, debt service reserves, operating reserves, and any cost of issuance, credit enhancement, swap agreement under IC 8-9.5-9, or item of expense directly or indirectly payable or reimbursable by the authority and related to the authorization, sale, or issuance of the bonds, including, but not limited to, underwriting fees and fees and expenses for professional consultants and fiduciaries.

Sec. 5. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 6. As used in this chapter, "net proceeds" means the amount of proceeds remaining following each sale of bonds that is not required by the authority to pay the financing costs.

Sec. 7. As used in this chapter, "qualifying statute" has the meaning set forth in the master settlement agreement. For purposes of this chapter, IC 24-3-3 is the qualifying statute.

Sec. 8. As used in this chapter, "residual interests" means the income of the authority that is in excess of the authority's requirements for its reserve fund or to pay its operating expenses, debt service, whether at maturity or upon redemption, or any other contractual obligations under any resolution or that may be incurred in connection with the issuance of the bonds.

Sec. 9. As used in this chapter, "sales agreement" means any agreement authorized under this chapter in which the state sells to the authority a portion of the amounts and revenues required to be paid by tobacco product manufacturers to the state and the state's rights to receive the amounts and revenues under the master settlement agreement.

Sec. 10. As used in this chapter, "state" means the state of Indiana, acting by and through its budget agency, or any other state agency, state office, or state officer required by law or contract to act on behalf of the state of Indiana for a particular purpose.

Sec. 11. (a) The general assembly declares it to be the public policy of the state and a recognized governmental function to assist in securitizing the revenue stream from the master settlement agreement between the state and tobacco product manufacturers in order to provide a current and reliable source of revenue for the state. The purpose of this chapter is to establish a tobacco settlement authority having the power to purchase certain rights of the state under the master settlement agreement and to issue nonrecourse revenue bonds.

(b) This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

(c) The general assembly hereby finds that the following activities are necessary and proper and serve a public purpose or purposes through the promotion of economic development, education, health and general welfare, and that they will be of benefit to the health and general welfare of the state and its citizens:

- (1) The creation of the authority.
- (2) Entering into one (1) or more sales agreements.
- (3) The sale to the authority of a portion of the amounts and revenues required to be paid by tobacco product manufacturers to the state and the state's right to receive the amounts and revenues under the master settlement

agreement.

(4) The issuance of bonds.

Sec. 12. The tobacco settlement authority is established and is a public body corporate and politic, separate from the state, and not a state agency. The exercise by the authority of its powers constitutes an essential public and governmental function.

Sec. 13. (a) The powers of the authority are vested in and shall be exercised by a board consisting of the following seven (7) members:

(1) The governor, or the governor's designee, who serves as chairperson.

(2) The lieutenant governor, or the lieutenant governor's designee, who serves as vice chairperson.

(3) The treasurer of state, or the treasurer of state's designee.

(4) Four (4) members appointed by the governor who are persons of known probity and who possess adequate capacity for the performance of the duties of members of the authority. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.

(b) The board shall elect from among the board's members the other officers the board considers necessary or convenient.

(c) The term of the members of the board appointed by the governor shall be four (4) years from the date of their appointment, except that the terms of two (2) of the initial appointees, as determined by the governor, shall be for two (2) years from the date of their appointment.

(d) Each member of the board appointed by the governor:

(1) shall hold office for the term of the member's respective appointment;

(2) shall continue to serve after the expiration of the appointment until a successor is appointed and qualified;

(3) is eligible for reappointment; and

(4) serves at the pleasure of the governor and may be removed from office by the governor at any time.

(e) The members of the board are not entitled to any compensation for their services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

Sec. 14. Four (4) members of the board constitute a quorum. Four (4) affirmative votes are required for the board to take action.

Sec. 15. Meetings of the board shall be held in accordance with IC 5-14-1.5 and at the call of the chair or when a majority of the members of the board so requests.

Sec. 16. (a) This section applies to a meeting of the board at which at least four (4) members of the board are physically present at the place where the meeting is conducted.

(b) A member of the board may participate in a meeting of the board by using a means of communication that permits:

(1) all other members of the board participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the board who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member of the board who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

Sec. 17. Any member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in any transaction with the authority shall immediately disclose the nature and extent of the interest in writing to the authority as soon as the member or employee has knowledge of the actual or

prospective interest. The disclosure shall be announced in open meeting and entered upon the minutes of the authority. Upon disclosure, the member or employee shall not participate in any action by the authority authorizing the transaction. However, such an interest shall not invalidate actions by the authority with the participation of the disclosing member prior to the time when the member became aware of the interest.

Sec. 18. Subject to section 36 of this chapter, the authority may, without the approval of the attorney general or any other state officer, employ independent counsel, bond counsel, other attorneys, financial advisers, investment bankers, auditors, other technical or professional assistants, and such other officers, agents and employees (including an executive director), permanent or temporary, as the authority considers necessary or convenient to carry out the efficient operation of the authority and shall determine the qualifications, duties, compensation, and terms of service of all such persons. The chairperson may appoint the initial executive director. The executive director is the chief operating officer of the authority, and the board shall establish the executive director's duties and responsibilities, including the powers that the authority has under this section. The board may delegate to an officer of the authority, the executive director, or one (1) or more other employees or agents of the authority such duties and responsibilities as the board considers necessary or convenient, including the powers that the authority has set forth in this section. Employees of the authority shall not be considered employees of the state.

Sec. 19. (a) The authority shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

Sec. 20. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may:

(1) sue and be sued in the name of the authority;

(2) make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter;

(3) invest monies held by the authority or on its behalf under any trust agreement of the authority or otherwise in the manner determined by resolution of the authority or under the trust agreement (an investment under this subdivision is not restricted by or subject to any other law);

(4) establish any general or special funds, accounts, or subaccounts, and controls on deposits to and disbursements from them, as it finds necessary, desirable, or convenient for the implementation of this chapter;

(5) procure insurance, other credit enhancements, and other financing arrangements for its bonds to fulfill its purposes under this chapter, including but not limited to municipal bond insurance and letters of credit;

(6) accept appropriations, gifts, grants, loans, or other aid from public or private entities;

(7) establish a stable source of revenue to be used for the purposes designated in this chapter;

(8) enter into one (1) or more sales agreements with the state for purchase of a portion of the amounts and revenues due to the state under the master settlement agreement and of the state's rights to receive those amounts and revenues;

(9) issue bonds in one (1) or more series;

(10) sell, pledge, or assign, as security, all or a portion of the revenues derived by the authority under any sales agreement to provide for and secure the issuance of its bonds;

(11) manage its funds, obligations, and investments as

necessary and as consistent with its purpose;

(12) without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business; and

(13) exercise any other power reasonably required, convenient, or desirable to implement the purposes of this chapter.

The rule of law that any doubt as to the existence of a power of the authority shall be resolved against the existence of that power is abrogated. Any doubt as to the existence of a power of the authority shall be resolved in favor of its existence.

Sec. 21. The authority may not:

(1) exercise the power of eminent domain; or

(2) levy taxes of any kind.

Sec. 22. (a) The authority may issue its bonds in principal amounts as may be necessary or appropriate to provide sufficient funds for:

(1) the exercise of any of its powers or achievement of its purposes;

(2) the payment of debt service on its bonds;

(3) the establishment of debt service or operating reserves to secure the bonds;

(4) the costs of issuance of its bonds and credit enhancements, if any; and

(5) all other financing costs or other expenditures of the authority incident to and necessary to carry out its purposes or powers.

(b) The net proceeds of the bonds shall be deposited as follows:

(1) Five-sevenths (5/7) of the net proceeds shall be deposited in the Indiana growth fund established by IC 4-4-32-3.

(2) Two-sevenths (2/7) of the net proceeds shall be deposited in the state general fund.

However, the net proceeds of any refunding bonds shall be deposited in accordance with a trust agreement of the authority.

(c) Before issuing bonds under this chapter, the authority shall publish a notice of its determination to issue the bonds. The notice shall be published one (1) time in a newspaper published and of general circulation in each of the four (4) counties having the greatest population in Indiana. No action to contest the validity of:

(1) a series of bonds issued by the authority; or

(2) any sales agreement entered into by the authority and the state related to the bonds;

may be brought after the fifteenth day following the publication of the notice. If an action challenging the bonds or sales agreement is not brought within the time prescribed by this subsection, the bonds or sales agreement shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person or entity is estopped from further questioning the authorization, validity, execution, delivery, or issuance of the bonds or the sales agreement.

(d) The bonds, when issued, shall have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26-1 and are incontestable in the hands of a bona fide purchaser or owner of the bond for value. Bonds issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.

(e) The authority's bonds shall:

(1) bear the date or dates;

(2) mature at the time or times;

(3) be in the denominations;

(4) be in the form;

(5) be registered or registrable in the manner;

(6) be made transferable, exchangeable, and interchangeable;

(7) be payable in the medium of payment and at the place or places;

(8) be subject to the terms of redemption;

(9) bear the fixed or variable rate or rates of interest;

- (10) be payable at the time or times; and
- (11) be sold at a public or negotiated sale in the manner and at the price or prices;

as the authority determines.

(f) The bonds shall be executed by one (1) or more officers of the authority and by the trustee or paying agent. Execution of the bonds may be by manual or facsimile signature.

(g) The bonds of the authority are subject to the terms, conditions, covenants, and protective provisions that are found necessary or desirable by the authority, including, but not limited to, pledges of the authority's assets, setting aside of reserves, and other provisions the authority finds are necessary or desirable for the security of bondholders.

(h) Any pledge of revenues to be derived by the authority under a sales agreement or from any other source, and the right to receive revenues under a sales agreement or from any other source, or any pledge of a special fund, account, or subaccount created by the authority, together with any investment earnings, is valid and binding at the time the pledge is made. Property so pledged is immediately subject to the lien of the pledge without any physical delivery thereof or further act. The lien of such a pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. Notwithstanding any other provision of law to the contrary, the resolution or trust agreement of the authority or any other instrument by which the pledge is created need not be recorded or filed except in the records of the authority to perfect the pledge.

(i) Neither a member of the board nor a person executing bonds or notes issued under this article is liable personally on the bonds or notes.

(j) The authority may, out of any funds or revenues available therefor, purchase its bonds in the open market.

Sec. 23. (a) The bonds issued under this chapter by the authority constitute the special obligations only of the authority and are payable solely from and secured exclusively by the pledge by the authority of certain funds and revenues and rights to receive funds or revenues in accordance with this chapter. Neither the faith and credit or taxing power of the state or any political subdivision of the state is pledged to the payment of principal or interest on the bonds. Each bond of the authority must plainly state on its face that the bond does not constitute an indebtedness or lending of the credit of the state within the meaning or application of any constitutional provision or limitation but that it is payable solely as to both principal and interest from the funds, revenues, and rights pledged under this chapter. The provisions of this chapter and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds may be enforced by a bondholder by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority, but no action for monetary judgment may be brought against the state for any violations of this chapter.

(b) All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. All bonds issued under this chapter are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose, and the bonds, the interest thereon, the proceeds received by the holder from the sale of the bonds to the extent of the holder's cost of acquisition proceeds received upon redemption prior to maturity, and proceeds received at maturity and the receipt of the interest and proceeds are exempt from taxation in the state for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 24. Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state of Indiana. The obligations of the authority under the

contracts are obligations only of the authority and are not in any way obligations of the state of Indiana.

Sec. 25. Bonds issued under the provisions of this chapter are hereby made securities in which all public officers and agencies of the state, all insurance companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds are hereby made securities that may properly and legally be deposited with and received by any officer or agency of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

Sec. 26. (a) Without complying with any other law governing the sale or disposition of property by the state, the state may sell and assign to the authority, and the authority may purchase, all of the state's right to receive a part not to exceed thirty-five percent (35%) of the state's annual share of the amounts and revenues due to the state under the master settlement agreement and of the state's rights to receive those amounts and revenues. The state, including the governor and the attorney general, may take any action necessary or convenient to facilitate and complete the sale. The authority may take any action necessary or convenient to facilitate and complete the purchase.

(b) A sale and assignment made under this section is irrevocable. All or a part of the amounts and revenues, and the right to receive the amounts and revenues, sold to the authority shall be pledged to the bondholders. The sale and assignment shall constitute and be treated as a true sale and absolute transfer of the property so sold and assigned and not as a pledge or other security interest granted by the state for any borrowing. The characterization of a sale and assignment as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the amounts and revenues due to the state under the master settlement agreement is being sold and assigned, by the state's acquisition or retention of an ownership interest in the portion of the amounts and revenues due under the master settlement agreement not so sold and assigned, or for any other reason.

(c) The state hereby covenants and agrees with the holders of any bonds that so long as any bonds of the authority issued under this chapter are outstanding and unpaid, the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with, or make payments to, the holders of the bonds or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholder are fully paid, satisfied, and discharged.

(d) The terms of any sales agreement must provide that on and after the effective date of the sale and assignment:

- (1) the state shall have no right, title, or interest in the property sold and assigned;
- (2) the property sold and assigned is the property of the authority and not the property of the state;
- (3) the property sold and assigned shall be owned, received, held, and disbursed by the authority or its trustee or assignee and not by the state;
- (4) none of the property sold and assigned shall be subject to garnishment, levy, execution, attachment, or other process, writ, (including writ of mandate), or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state; and
- (5) the portion of the amounts and revenues due under the master settlement agreement that are sold and assigned to the authority must be paid directly to the authority or its trustee or assignee and shall not be considered money drawn from the state treasury.

(e) Any sales agreement may include such other agreements and covenants of the state as may be permitted by the constitution of the state and as may be necessary or convenient for the sale and assignment of the portion of the amounts and

revenues due under the master settlement agreement and the issuance of bonds to finance the purchase by the authority.

(f) The state shall:

(1) notify the independent auditor and the escrow agent under the master settlement agreement that a portion of the amounts and revenues due under the master settlement agreement has been sold and assigned to the authority; and
(2) irrevocably instruct the independent auditor and the escrow agent that, after the date of the notice under subdivision (1), the portion of the amounts and revenues due under the master settlement agreement sold and assigned to the authority is to be paid directly to the trustee under the trust agreement of the authority for the benefit of the owners of the bonds secured by a pledge of those amounts and revenues until the bonds are no longer outstanding under the resolution or trust agreement.

(g) For purposes of IC 4-12-1-14.3, the part of the amounts and revenues due under the master settlement agreement that is sold and assigned to the authority:

(1) is not money received by the state under the master settlement agreement; and
(2) shall not be deposited in the Indiana tobacco master settlement agreement fund.

Sec. 27. Members of the board, the officers and employees of the authority, the agents of the authority, and any other persons executing bonds issued under this chapter are not subject to personal liability or accountability by reason of any act authorized by this chapter, including, without limitation, the issuance of bonds, the failure to issue bonds, the execution of bonds, and the exercise of any other powers contemplated by this chapter.

Sec. 28. (a) The authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or any corresponding chapter or section that may, from time to time, be in effect. A governmental officer, governmental organization, or other entity or person may not authorize the authority to be a debtor under chapter 9 of the federal bankruptcy code or any successor or corresponding chapter or sections.

(b) This section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law before the date that is three hundred sixty-six (366) days after the date upon which the authority no longer has any bonds outstanding.

Sec. 29. The authority shall dissolve not later than two (2) years from the date of final payment of all of its outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all of the authority's property shall be transferred and assigned to the state and the authority shall execute all necessary assignments and other documents as may be necessary or convenient to transfer and assign its property to the state, including the authority's right, title, or ownership interest in amounts and revenues due under the master settlement agreement, which amounts shall be deposited in the state general fund.

Sec. 30. Before issuing any bonds, the authority shall enter into a sales agreement that includes the agreement of the state to:

(1) diligently enforce the authority's right to receive the portion of the amounts and revenues due under the master settlement agreement and sold under the sales agreement, to the full extent permitted by the master settlement agreement;
(2) diligently enforce the qualifying statute as contemplated by the master settlement agreement against all tobacco product manufacturers that are selling tobacco products in Indiana and are not signatories to the master settlement agreement;
(3) neither amend the master settlement agreement nor take any other action that would in any way:

(A) alter, limit, or impair the authority's right to receive the portion of the amounts and revenues due under the master settlement agreement and sold under the sales agreement;

(B) limit or alter the rights vested in the authority by this chapter or other law to fulfill its agreements with the bond owners; or

(C) impair the rights and remedies of the bond owners or the security for the bonds;

until the bonds, together with the interest on the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the bond owners, are fully paid and discharged (however, nothing in this subdivision shall be construed to preclude the state's regulation of smoking and taxation and regulation of the sale of cigarettes or other tobacco products);

(4) not amend, supersede, or repeal the qualifying statute in any way that would violate section 26(c) of this chapter; or

(5) take no action that would adversely affect the tax exempt status of any tax exempt bonds issued by the authority.

Sec. 31. The authority shall contract with an independent certified public accountant for an annual financial audit of the authority. The certified public accountant shall present an audit report not later than seven (7) months after the end of each fiscal year of the authority.

Sec. 32. The state board of accounts may at any time conduct an audit of the authority.

Sec. 33. The authority shall submit copies of its annual budget and the audit report referred to in section 31 of this chapter to the budget director, the legislative council, and the state board of accounts.

Sec. 34. Income or revenues of the authority not required to meet its obligations (including redemption obligations on its bonds) shall be paid over to the state general fund if directed by the governor.

Sec. 35. (a) As used in this section, "sale portion" means the portion of the punitive damage award payment that is equal to the percentage determined under section 26 of this chapter.

(b) This section applies upon the entry of a judgment that includes a punitive damage award in a civil action related to tobacco products in which:

(1) the state or an agency of the state is the party to the action receiving the award; and

(2) a tobacco manufacturer who participates in the master settlement agreement is the party against whom the judgment was entered.

IC 34-51-3-6 does not apply to such a punitive damage award.

(c) Upon entry of a judgment described in this section, the right of the state or an agency of the state to receive the sale portion of the punitive damage award payment described in this section is assigned to the authority. For as long as this assignment is in effect, any sale portion of a punitive damage award payment received by the state, or an agency of the state, in settlement of a judgment described in this section or as satisfaction or partial satisfaction of a judgment to which this section applies shall be considered to be held for the benefit of the authority and shall be remitted immediately after receipt of the payment to the authority subject to any pledge under this chapter.

(d) The authority may spend money received under this section in accordance with this chapter, subject to any pledge under this chapter.

(e) That portion of the punitive damages award in excess of the sale portion under this section shall be paid to the state or an agency of the state, as applicable, and used as otherwise provided by law.

(f) The assignment under this section terminates upon the earlier of the date on which:

(1) the authority is dissolved under section 29 of this chapter;

- (2) all outstanding bonds and other agreements of the authority have been paid in full or otherwise discharged; or
- (3) a state court has entered a final judgment from which no further appeal is allowed ordering the judgment debtor tobacco manufacturer to pay the state both its obligations under the master settlement agreement and any punitive damages to be paid to the state without setoff, credit, or reduction of one (1) obligation on account of the other.

Sec. 36. (a) As used in this section, "bond service provider" means any bond counsel, other attorney, financial adviser, senior managing underwriter, or verification agent who provides bond services.

(b) As used in this section, "bond services" includes legal, financial, and other services by a bond service provider rendered in conjunction with the issuance and sale of bonds. The term does not include services provided by nationally recognized credit rating agencies, co-managing underwriters and selling group members, or forecasters of cigarette consumption and providers of similar reports for use in an official statement or other disclosure document in connection with the sale of bonds.

(c) If the authority determines that a bond service required by the authority cannot be performed by employees of the authority, the authority shall enter into a contract for the bond service with a bond service provider. The authority shall have wide discretion in establishing criteria for entering into contracts under this section and selecting the bond service providers the authority considers to be necessary or appropriate to provide bond services. In the exercise of this discretion, the authority shall consider all proposed fee schedules and the public interest in achieving issuance and sale of bonds on terms and conditions most favorable to the authority. Notwithstanding any other provision of this section to the contrary, the general assembly finds that it is in the public interest to enter into contracts for bond services with Indiana based and minority and women's business enterprises.

(d) The authority shall seek responses to requests for qualifications for a contract for bond services under this section. Requests for qualifications for bond services must include the following:

- (1) The factors or criteria that will be used in evaluating the responses.
- (2) A statement concerning the relative importance of price and the other evaluation factors.
- (3) A statement concerning whether the response must be accompanied by a certified check or other evidence of financial responsibility.
- (4) A statement concerning whether discussions may be conducted with responsible respondents.

(e) The authority shall give public notice of the request for qualifications for bond services by publication in the manner required by IC 4-4-31-22(b) and shall also provide electronic access to the notice through the electronic gateway administered by the internet commission.

(f) Responses must be opened so as to avoid disclosure of contents to competing respondents during the process of negotiation.

(g) As provided in the request for qualifications or under the rules or policies of the authority, discussions may be conducted with, and best and final responses obtained from, responsible respondents.

(h) Respondents must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of responses. In conducting discussions with a respondent, information derived from responses submitted by competing respondents may not be disclosed.

(i) The only factors or criteria that may be used in the evaluation of responses are those specified in the request for qualifications.

(j) The authority shall enter into a contract with the responsible respondent whose response is determined in writing to be the most advantageous to the authority, taking into consideration price and other evaluation factors set forth in the

request for qualifications. The following provisions apply to the authority's determination as to whether a respondent is responsible:

- (1) If a respondent fails to provide information required by the authority concerning a determination of whether the respondent is responsible, that respondent may not be considered responsible under this article.
- (2) In determining whether a respondent is responsible, the authority may consider the following factors:
 - (A) The ability and capacity of the respondent to provide the bond service.
 - (B) The integrity, character, and reputation of the respondent.
 - (C) The competency and experience of the respondent.
- (k) A register of responses must be:
 - (1) prepared for each contract entered into under this section; and
 - (2) open for public inspection after the execution of the contract.
- (l) The register of responses must contain the following:
 - (1) A copy of the request for qualifications.
 - (2) A list of all persons to whom copies of the request for qualifications were given.
 - (3) A list of all responses received, which must include all of the following:
 - (A) The names and addresses of all respondents.
 - (B) The manner in which the amount payable to the respondent would be determined.
 - (C) The name of the successful respondent and the manner in which the amount payable to that respondent is to be determined.
 - (4) The basis on which the contract was entered into.
 - (5) The entire contents of the contract file except for proprietary information, such as trade secrets and financial information that was not required to be made available for public inspection by the terms of the request for qualifications.

SECTION 26. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 32. Indiana Growth Fund

Sec. 1. As used in this chapter, "authority" refers to tobacco settlement authority established by IC 4-4-31-12.

Sec. 2. As used in this chapter, "fund" refers to the Indiana growth fund established by section 3 of this chapter.

Sec. 3. The Indiana growth fund is established to provide the necessary money for projects and programs that will energize Indiana economic development.

Sec. 4. The money from the following sources shall be deposited in the fund:

- (1) The net proceeds of bonds issued to securitize the payments under the tobacco settlement agreement and deposited in the fund under IC 4-4-31-22.
- (2) Appropriations, if any, made to the fund by the general assembly.
- (3) Grants, gifts, and donations intended for deposit in the fund.
- (4) Interest that accrues from investment of money in the fund.

Sec. 5. The fund shall be administered by the authority.

Sec. 6. The expenses of administering the fund shall be paid from money in the fund. Interest that accrues from these investments shall be deposited in the fund.

Sec. 7. The authority shall invest the money in the fund not currently needed to meet the obligations of the fund in conformity with the investment policies established by the authority.

Sec. 8. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. Money in the fund may be used to:

- (1) make the distributions authorized by the general assembly; and

(2) pay the expenses of operating the authority and the expenses of administering the fund.

Sec. 10. A distribution that is required to be made in a state fiscal year must be made during that state fiscal year on the earlier of:

- (1) the schedule specified by the budget agency; or
- (2) June 30.

Sec. 11. (a) If there is insufficient money in the fund for the authority to make the total amount of transfers required by sections 12 through 15 of this chapter for any state fiscal year, the authority shall make transfers for that state fiscal year as directed by the budget agency after review by the budget committee.

(b) If money subsequently becomes available to make both:

- (1) the total amount of transfers required by law in a state fiscal year, including the supplemental distribution required under section 12 of this chapter; and
- (2) one (1) or more transfers that were deferred or reduced under this section in a prior state fiscal year;

the budget agency, after review by the budget committee, may direct the authority to make part or all of the deferred or reduced distribution for the purpose specified by law for that distribution in any state fiscal year before July 1, 2013.

Sec. 12. (a) In each state fiscal year beginning after June 30, 2003, and ending before July 1, 2013, the authority shall distribute twenty-five million dollars (\$25,000,000) from the fund to the Indiana development finance authority established by IC 4-4-11-4.

(b) In addition, if, in any state fiscal year, the budget agency after review by the budget committee determines that the balance in the fund is greater than the amount necessary to make all distributions from the fund required by law, the budget agency shall direct the authority to make a supplemental distribution from the fund to the Indiana development finance authority established by IC 4-4-11-4. However, the supplemental distribution when added to the amount distributed under subsection (a) may not exceed thirty-six million dollars (\$36,000,000) in any state fiscal year.

(c) Money transferred to the Indiana development finance authority under this section:

- (1) must be deposited either in:
 - (A) the twenty-first century research and development fund (IC 4-4-5.1-3); or
 - (B) the Indiana venture fund (IC 4-4-11.7-5); and
- (2) may be used only for the purposes of the twenty-first century research and development fund or the Indiana venture fund.

(d) Money that is deposited in or transferred to the twenty-first century research and development fund or the Indiana venture fund under this section and not currently needed to meet the obligations of the fund may be:

- (1) used in a subsequent state fiscal year for the purposes of the fund in which it is deposited; or
- (2) transferred between the funds and used for the purposes of the fund to which the money is transferred in the state fiscal year in which it is transferred or a subsequent state fiscal year.

Sec. 13. In each state fiscal year beginning after June 30, 2003, and ending before July 1, 2013, the authority shall distribute four million dollars (\$4,000,000) from the fund to the treasurer of state for deposit in the technology development grant fund established under IC 4-12-11-8. Money distributed under this section to the technology development grant fund may be used only for the purposes of the technology development grant fund.

Sec. 14. In each state fiscal year beginning after June 30, 2003, and ending before July 1, 2013, the authority shall make the following annual distributions to the treasurer of state for deposit in the indicated funds:

- (1) One million two hundred thousand dollars (\$1,200,000) for deposit in the rural development council fund (IC 4-4-9.5-4).

(2) Six hundred thousand dollars (\$600,000) for deposit in the value added research fund (IC 4-4-3.4-4).

(3) Two million four hundred thousand dollars (\$2,400,000) for deposit in the rural development administration fund (IC 4-4-9.3).

Money distributed under this section to a fund described in subdivisions (1) through (3) may be used only for the purposes of the fund to which it is distributed.

Sec. 15. The authority shall make the following distributions from the fund to the treasurer of state for deposit in the Indiana growth scholars fund in the following specified state fiscal years:

- (1) Four million seven hundred thousand dollars (\$4,700,000) in the state fiscal year beginning July 1, 2003, and ending June 30, 2004.
- (2) Five million one hundred thousand dollars (\$5,100,000) in the state fiscal year beginning July 1, 2004, and ending June 30, 2005.
- (3) Five million six hundred thousand dollars (\$5,600,000) in the state fiscal year beginning July 1, 2005, and ending June 30, 2006.
- (4) Six million one hundred thousand dollars (\$6,100,000) in the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

Money distributed under this section to Indiana growth scholars fund may be used only for the purposes of the Indiana growth scholars fund.

Sec. 16. This chapter expires June 30, 2013.

SECTION 27. IC 4-12-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11. Technology Development Grant Fund

Sec. 1. As used in this chapter, "department" refers to the department of commerce established by IC 4-4-3-2.

Sec. 2. As used in this chapter, "fund" refers to the technology development grant fund established by section 8 of this chapter.

Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 4. As used in this chapter, "redevelopment commission" refers to a redevelopment commission established under IC 36-7-14-3 or a commission (as defined in IC 36-7-15.1-3) that establishes a technology park.

Sec. 5. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.

Sec. 6. As used in this chapter, "targeted employment" means employment in any of the following business activities:

- (1) Advanced manufacturing, including the following:
 - (A) Automotive and electronics.
 - (B) Aerospace technology.
 - (C) Robotics.
 - (D) Engineering design technology.
- (2) Life sciences, including the following:
 - (A) Orthopedics or medical devices.
 - (B) Biomedical research or development.
 - (C) Pharmaceutical manufacturing.
 - (D) Agribusiness.
 - (E) Nanotechnology or molecular manufacturing.
- (3) Information technology, including the following:
 - (A) Informatics.
 - (B) Certified network administration.
 - (C) Software development.
 - (D) Fiber optics.
- (4) Twenty-first century logistics, including the following:
 - (A) High technology distribution.
 - (B) Efficient and effective flow and storage of goods, services, or information.
 - (C) Intermodal ports.

Sec. 7. As used in this chapter, "technology product" means a product that involves high technology activity or otherwise involves targeted employment.

Sec. 8. The technology development grant fund is established to provide the necessary money for grants to redevelopment

commissions under this chapter and the administration of this program.

Sec. 9. The fund shall be administered by the department.

Sec. 10. The expenses of administering the fund shall be paid from money in the fund. Interest that accrues from these investments shall be deposited in the fund.

Sec. 11. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested.

Sec. 12. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 13. The department shall establish a grant application procedure for redevelopment commissions.

Sec. 14. To qualify for a grant under this chapter, a redevelopment commission must:

- (1) submit an application in the form prescribed by the department;
- (2) demonstrate that:
 - (A) the redevelopment commission has established a technology park; and
 - (B) the grant being applied for under this chapter will assist the redevelopment commission in accomplishing the goals of the technology park under IC 36-7-32; and
- (3) provide the other information required by the department.

Sec. 15. The department shall provide grants on a competitive basis from the fund to businesses that apply for a grant under this chapter. The department may select and fund part or all of an application request that:

- (1) is submitted during an application period; or
- (2) was submitted in a prior application period but not fully funded in that application period.

Sec. 16. (a) For purposes of this section, "operating expenditures" includes the following:

- (1) Business plans.
- (2) Marketing studies.
- (3) Mentor identification.
- (4) Securitization of capital.
- (5) Legal services.
- (6) Other necessary services.

(b) The total of all grants provided under this chapter for a technology park may not exceed the following:

- (1) Two million dollars (\$2,000,000) for the leasing, construction, or purchase of capital assets.
- (2) Two million dollars (\$2,000,000) for operating expenditures, and, subject to subsection (d), with not more than five hundred thousand dollars (\$500,000) being distributed in any one (1) fiscal year.

(c) This subsection applies to a grant provided under subsection (b)(1) for the leasing of a capital asset. The grant may be applied only to lease payments made during:

- (1) the fiscal year; or
- (2) each of the three (3) fiscal years immediately following the fiscal year;

in which the grant is provided.

(d) The annual distribution of a grant under subsection (b)(2) may not exceed the following:

- (1) Eighty percent (80%) of total operating expenditures in the fiscal year in which the grant is provided.
- (2) Sixty percent (60%) of total operating expenditures in the fiscal year after the fiscal year in which the grant is provided.
- (3) Forty percent (40%) of total operating expenditures in the second fiscal year after the fiscal year in which the grant is provided.
- (4) Twenty percent (20%) of total operating expenditures in the third fiscal year after the fiscal year in which the grant is provided.

Sec. 17. A capital expenditure grant under this chapter shall require that the lesser of:

- (1) two million dollars (\$2,000,000); or
- (2) fifty percent (50%) of the total capital costs;

of the project being funded by the grant be matched from other sources.

Sec. 18. The department may, under rules established by the department of local government finance and the procedures established by the department, award grants from the fund to one (1) or more political subdivisions to reimburse the political subdivisions for ad valorem property taxes allocated to an allocation area as a result of a resolution adopted under IC 36-7-32-15.

Sec. 19. In addition to any other appropriation made for the purposes of the fund, the lesser of the amount transferred to the fund under IC 4-4-32 or four million dollars (\$4,000,000) is annually appropriated from the fund for the purposes of the fund in each of the state fiscal years beginning after June 30, 2003, and ending before July 1, 2013. The spending authority granted by an appropriation under this section does not expire at the end of the state fiscal year for which the appropriation is made but remains available for expenditure from the fund in any state fiscal year that ends before July 1, 2013.

SECTION 28. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 25. Internship Payroll Credit

Sec. 1. As used in this chapter, "certified degree program" has the meaning set forth in IC 22-4.1-7-1.

Sec. 2. As used in this chapter, "graduate" has the meaning set forth in IC 22-4.1-7-5.

Sec. 3. As used in this chapter, "institution of higher learning" has the meaning set forth in IC 20-12-29.5-4.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "payroll expenditures" means wages and other compensation reportable as taxable income to a student or graduate.

Sec. 6. As used in this chapter, "state tax liability" means the total tax liability incurred under:

- (1) IC 6-3 (adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "student" has the meaning set forth in IC 22-4.1-7-7.

Sec. 8. As used in this chapter, "targeted employment" has the meaning set forth in IC 22-4.1-7-8.

Sec. 9. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability or is a pass through entity.

Sec. 10. (a) A taxpayer that during a taxable year:

- (1) employs in targeted employment at least one (1) student or graduate; and
 - (2) complies with the terms of the internship or postgraduate component of a certified degree program through which the student was placed with the taxpayer;
- is entitled to a credit against the taxpayer's state tax liability in the taxable year.

(b) A taxpayer that during a taxable year employs in targeted employment a student or graduate of a certified degree program is entitled to a credit against the taxpayer's state tax liability in the taxable year.

Sec. 11. A credit under this chapter is equal to the sum of:

- (1) five hundred dollars (\$500) for each targeted employment position:
- (A) filled by a student in or a graduate of a certified degree program certified by the state student assistance commission, in consultation with the department of

workforce development and the commission for higher education under IC 22-4.1-7; and

(B) approved by the sponsoring institution of higher learning; plus

(2) the lesser of:

(A) the payroll expenditures incurred by the taxpayer in the taxable year to employ the student or graduate in targeted employment; or

(B) five hundred dollars (\$500).

Sec. 12. If the credit for which a taxpayer is eligible in a taxable year under this chapter exceeds the taxpayer's state tax liability for the taxable year, the taxpayer may carry over the excess to the immediately following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to any carryback or refund.

Sec. 13. If a pass through entity does not have state income tax liability against which the credit under this chapter may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

(1) the credit determined under this chapter for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 14. To receive a credit under this chapter, a taxpayer must claim the credit on the taxpayer's state tax return in the manner prescribed by the department. The taxpayer must submit to the department proof of payment of the payroll expenditures and all information that the department determines is necessary to determine the taxpayer's eligibility for the credit.

Sec. 15. A taxpayer is not eligible to receive both a credit for an employee under this chapter and a credit or deduction for the same employee under any of the following:

(1) IC 6-3-3-10 (enterprise zone employment credit).

(2) IC 6-3-1-6 (prison investment credit).

SECTION 29. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) the commission established under IC 4-13.5;

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; or

(4) a fund or program established under IC 13-18-13 or IC 13-18-21; or

(5) the authority established under IC 4-4-31.

SECTION 30. IC 8-9.5-9-8, AS AMENDED BY P.L.273-1999, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) With respect to all leases and contracts entered into by the authority with the Indiana department of transportation, the Indiana department of administration, a fund or program established under IC 13-18-13 or IC 13-18-21, or any other entity to support obligations, the lease or contract may provide that payments under a swap agreement are treated as a debt service on the obligations or as additional rental or other payment due under the lease or contract as the authority may determine.

(b) The authority may determine that payments under a swap agreement may be integrated with payments on obligations for the purpose of meeting any statutory requirements related to the issuance of obligations. **The authority may also determine to secure its payments under the swap agreement with the same collateral securing the related obligations, either on a parity or a subordinate basis.**

SECTION 31. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the agricultural, industrial and commercial development of the state, and to provide for the general welfare by the construction

and operation, in cooperation with the federal government, or otherwise, of a modern port on Lake Michigan and/or the Ohio River, and/or the Wabash River, system with terminal facilities to accommodate water, rail, truck, and air-borne, and other forms of transportation, the Indiana Port Commission is hereby authorized and empowered to construct, maintain and operate, in cooperation with the federal government, or otherwise, at such location on Lake Michigan and/or the Ohio River, and/or the Wabash River, locations as shall be approved by the governor, **projects, including without limitation** public ports with terminal facilities and traffic exchange points **throughout Indiana** for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from the St. Lawrence Seaway, **all forms of transportation**, and to issue port revenue bonds of the state payable solely from revenues, to pay the cost of such projects. **The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

SECTION 32. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the Indiana Port Commission created by section 3 of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include **any combination of:**

(1) any place or places on Lake Michigan, the Ohio River, and the Wabash River, **or other water bodies**, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded or accommodated; and

(2) **nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.**

(c) The words "port word" "project" shall include:

(1) any facilities, adjuncts and appurtenances necessary or useful to operate a modern port, **whether or not permanently situated at the port**, including:

(A) the dredging of approaches thereto, ~~and including, among other things, but not limited to~~ **to a port; and**

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port; and

(2) **any other project located in Indiana, other than at a port, that the commission finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

(d) The word "cost" as applied to a port or port project ~~shall embrace means:~~

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for ~~such~~ construction;

- (3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;
- (4) the cost of relocating public roads;
- (5) the cost of land or easements therefor, for roads;**
- (6) the cost of all machinery and equipment;
- (7) financing charges;
- (8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
- (9) the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;**
- (10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;**
- (11) administrative expense; and ~~such~~**
- (12) other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of such the acquisition or construction, and the placing of the project in operation, including the amount authorized in the resolution of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds.**

(e) Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of port commission revenue bonds as authorized by this chapter.

~~(f)~~ **(f)** The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and other interests authorized to be acquired by this chapter.

~~(g)~~ **(g)** The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys and all other funds coming into the possession or under the control of the commission by virtue of the terms and provisions of this chapter, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

~~(h)~~ **(h)** The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township or other political subdivision.

SECTION 33. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this chapter in the construction, operation and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall

be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any ~~port~~ revenue bonds under the provisions of this chapter, each appointed member of the commission shall give a surety bond to the state in the penal sum of twenty-five thousand dollars (\$25,000) and the secretary-treasurer shall give a surety bond to the state in the penal sum of fifty thousand dollars (\$50,000). Each such surety bond **to must** be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand, five hundred dollars (\$7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence. ~~The governor shall, however, appoint said members as herein provided within a period of sixty (60) days following the effective date of this chapter.~~

(e) Each member shall be reimbursed for ~~his~~ **the member's** actual expenses necessarily incurred in the performance of ~~his~~ **the member's** duties.

(f) All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this chapter.

SECTION 34. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this chapter, unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and nothing in this chapter contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 35. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission may:

- (1) prepare sketches, plans, and descriptive material relating to ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote ~~such public port or port the~~ **ports or** projects and deems to be in the public interest;

(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire a suitable ~~site sites~~ for such public port ~~or port ports~~ or projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, ~~and~~ airborne ~~and other forms of~~ transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port ~~or~~ project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 36. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized and empowered **to do the following:**

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal which shall not be the seal of the state of Indiana.

(3) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(4) To sue and be sued, and to plead and be impleaded in its own name. However, actions at law against the commission shall be brought in the circuit court of the county in which the principal office of the commission is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the commission by leaving a copy thereof at the principal office of the commission with the person in charge thereof or with the secretary of the commission. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(5) To acquire, lease, construct, maintain, repair, police, and operate a port ~~or port~~ project as provided in this chapter, and to establish rules and regulations for the use of ~~such the~~ port or ~~port~~ project, and other property subject to the jurisdiction and control of the commission.

(6) To issue ~~port both taxable and tax exempt~~ revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or ~~port~~ project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port ~~or port~~ project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port ~~or port~~ project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the a port property: or~~ **project.**

(11) To lease to others for development or operation such portions of any port ~~or port~~ project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars (\$25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana, the county where the~~ **construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety as shall be approved by the commission, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(13) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(13)~~ **(14)** To employ an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation, but no compensation of any employee of the commission shall exceed the compensation of the highest paid officer or employee of the state. However, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.

~~(14)~~ **(15)** To receive and accept from any federal agency grants for or in aid of the construction of any port ~~or port~~ project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(15)~~ **(16)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(16)~~ **(17)** To do all acts and things necessary or proper to carry out the powers expressly granted in this chapter. ~~and~~

~~(17)~~ **(18)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.

SECTION 37. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it necessary to change the location of any portion of any public road, **highway**, railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~ project. The commission shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port ~~or port~~ project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or

governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this chapter, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by it, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or port project, provided adequate compensation is made for such use. The commission shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or port project. Whenever the commission shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any such port or port project should be relocated or should be removed from such the port or port project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the commission. ~~provided, that~~ However, ~~that~~ the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the commission as a part of the cost of such the port or port project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 38. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have power to adopt such by-laws, rules and regulations as it may deem advisable for the control and regulation of any port or port project or traffic on any port or port project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the commission shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the commission without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the commission commits a Class C infraction.

SECTION 39. IC 8-10-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The commission is hereby authorized and empowered to acquire by purchase whenever it shall deem such purchase expedient, any land, property, rights, right-of-ways, franchises, easements and other interests in lands, including lands under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any port or port project, upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the commission and the owner thereof, and to take title thereto in the name of the state.

(b) The commission is hereby further authorized and empowered to sell, transfer and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. ~~and it~~ **The commission** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or port project, or as otherwise required under the provisions of this chapter. ~~Provided, that~~ **However,** no such sale shall be made without **first obtaining** the approval of the Governor, ~~first obtained~~ and **a sale may not be made** at ~~not~~ less than the appraised value established by three (3) independent appraisers appointed by the Governor. The commission shall be authorized to restrict the use of any land so sold by it and provide for a reversion to the commission in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the Governor.

(c) The commission shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the commission, on such terms as the commission shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the Governor. Leases of lands under the jurisdiction or control of the commission shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ~~the port and ports,~~ terminal facilities, **and projects** under the jurisdiction or control of the commission. In the event the commission shall lease to others a building or structure financed by the issuance of revenue bonds the rental shall be in an amount at least sufficient to pay the interest on and principal of the amount of such bonds representing the cost of such building or structure to the extent such interest and principal is payable during the term of the lease, as well as to pay the cost of maintenance, repair and insurance for such building and a reasonable portion of the commission's administrative expense incurred during the term of the lease which is allocable to such building or structure.

(d) **No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the commission, a port, a project, or the state, unless a written agreement entered into by the commission expressly provides:**

- (1) the exact nature and extent of the right, claim, title, or interest;**
- (2) all the conditions under which the right, claim, title, or interest is granted; and**
- (3) a legal or complete description of the specific property.**

SECTION 40. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements, or other property necessary or proper for the construction or the efficient operation of any port or port project. The commission shall also be empowered to exercise such powers of eminent domain as may be conferred upon the commission by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the commission to take or disturb property or facilities

constituting all or part of any presently existing or operating public port and nothing herein shall authorize the commission to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the commission excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 41. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the acquisition of land including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition, and for studies in connection with the port **or project**, and including administrative expenses of the commission. Said fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars (\$100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of port revenue bonds for any port **or project**, the funds expended from the Indiana port fund in connection with the development of such **port or project** and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such **port or project** shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 42. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission is hereby authorized to provide by resolution, at one (1) time or from time to time, for the issuance of port revenue bonds of the state for the purpose of paying all or any part of the cost of a port **or project**. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding fifty (50) years from the date thereof, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached

thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) All bonds issued under this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, **except as provided in IC 8-10-4.**

(g) No action to contest the validity of any bonds issued by the commission under this chapter shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this chapter.

SECTION 43. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port **or project** for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port **or project** for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. **Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this chapter** may be issued under the provisions of this chapter without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 44. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is hereby authorized to provide by resolution for the issuance of **port revenue** refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of **section 13** of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the commission, for the additional purpose of constructing improvements, extensions, or enlargements of the port **or project** in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties, and obligations of the commission in respect of the same, shall be governed by the provisions of this chapter insofar as the same may be applicable.

SECTION 45. IC 8-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion

of the commission any bonds issued under the provisions of this act may be secured by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. Any resolution adopted by the commission providing for the issuance of **revenue** bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the commission except such part as may be necessary to pay the cost of the commission's administrative expenses, operation, maintenance, and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the commission, but the commission shall not convey or mortgage any ~~port~~ **port or project** or any part thereof. In authorizing the issuance of bonds for any particular ~~port or project~~, **undertaken in connection with the development of the port**, the commission may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the commission may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the ~~port or project~~ on account of which the original bonds were issued, or to provide funds to pay the cost of additional ~~port~~ **projects undertaken in connection with the development of the port or project**, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the commission pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the commission. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the ~~port or project~~ in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges, to be collected for the use of the project, and the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the commission, to furnish such indemnifying bonds or to pledge such securities as may be required by the commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the ~~port or project~~.

SECTION 46. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission shall be authorized to fix, review, charge, and collect fees, tolls, rentals, and other charges for the use of the ~~port, port project, ports, projects~~, terminal facilities, and lands under the jurisdiction or control of the commission or services rendered by the commission,

and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance and repair of the ~~port or project~~ and terminal facilities, including the administration expenses of the commission, and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau, or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of ~~such the port or project~~ shall be paid into the state general fund.

SECTION 47. IC 8-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the commission or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or ~~port project~~.

SECTION 48. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each ~~port or port project~~, as defined in section 2 of this chapter, when constructed and ~~opened to traffic~~ **placed in operation** shall be maintained and kept in good condition and repair by the commission. Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the commission may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 49. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies, and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real **or personal** property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

SECTION 50. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~project: commission's ports and projects~~. The accounts, books, and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~port project: commission's ports and projects~~.

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor. Each member of the general assembly shall receive a copy of such report by making a request for it to the

chairman of the commission. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 51. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds issued by the commission under the provisions of this chapter shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust, and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. **The bonds are also made securities that may be deposited with and received by all public officers and bodies of this state or any agency or political subdivisions of this state and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of this state is now or may be later authorized by law.**

SECTION 52. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port **or** project by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any port **or** project or any property acquired or used by the commission under the provisions of this chapter or upon the income therefrom. The bonds issued by the commission, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that **is qualifies as** part of a port **under section 2(b)(1) of this chapter** and that is owned by the state or the commission is exempt from property taxation. **However, an exemption under this subsection is not available for land that qualifies as part of a port under section 2(b)(2) of this chapter or any other provision other than section 2(b)(1) of this chapter.**

SECTION 53. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. **The state hereby pledges and agrees with the holders of any bonds issued under this chapter that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.**

SECTION 54. IC 8-10-1-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) **Except as provided in subsection (b), the commission may not:**

- (1) enter into a contract for the construction or repair of any building, structure, or other improvement;
- (2) take another action in furtherance of the commission's authorized purposes; or
- (3) enter into a loan agreement for the borrowing of funds for an improvement undertaken by the commission;

where the commission is the contracting entity, unless laborers and mechanics employed on the improvements are paid the common construction wage of laborers and mechanics for the

class of work called for by the improvement. For purposes of this section, wages shall be determined in accordance with the requirements of IC 5-16-7.

(b) **Subsection (a) does not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with the project and prescribes predetermined minimum wages to be paid to the laborers and mechanics.**

SECTION 55. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, whenever it finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the commission further finds will increase the ~~water-borne~~ traffic into or out of the **port project**. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the commission shall have all the powers granted to it by this article, in connection with a **port project**, and the term "**port**" "**project**", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the Indiana port commission to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The Indiana port commission shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 56. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "self-liquidating **port project**" shall mean a **port project** for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of such bonds to be issued to finance the cost of such **port project** and further providing for the payment by the lessee or lessees of all costs of maintenance, repair, and insurance of such **port project**.

(b) Other words and terms used in this chapter shall have the same meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 57. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating **port project**, shall have the following powers notwithstanding any other provision of this article to the contrary:

- (a) The revenue bonds issued by the commission to finance the cost of such self-liquidating **port project** may be issued without regard to any maximum interest rate limitation in this article or any other law.
- (b) The revenue bonds issued by the commission to finance the cost of such self-liquidating **port project** may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.
- (c) **IC 4-13.6, IC 5-16 (other than IC 5-16-7), and IC 36-1-12 do not apply to projects to be leased to a private party whose lease payments are expected to be sufficient to**

pay all debt service on bonds issued by the commission to finance the project. However, the private party must comply with IC 5-16-7.

SECTION 58. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 59. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port project may include, instead of the cost of the acquisition of the land constituting the site of such port project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 60. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any port project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the port project.

SECTION 61. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Certified Degree Programs

Sec. 1. As used in this chapter, "certified degree program" means a degree program that:

- (1) is certified by the commission in consultation with the department and the commission for higher education;
- (2) addresses the areas of targeted employment; and
- (3) includes an internship component described in section 10 of this chapter.

Sec. 2. As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

Sec. 3. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

Sec. 4. As used in this chapter, "fund" refers to the Indiana growth scholars fund established by section 9 of this chapter.

Sec. 5. As used in this chapter, "graduate" means a graduate of an institution of higher learning in Indiana who:

- (1) participated in a certified degree program; and
- (2) remains and is employed in Indiana in targeted employment after the student graduates from the certified degree program to complete a post-graduate component of a certified degree program.

Sec. 6. As used in this chapter, "institution of higher learning" means:

- (1) a state educational institution (as defined in IC 20-12-0.5-1); or
- (2) a private institution of higher education (as defined in IC 20-12-63-3(10)).

Sec. 7. As used in this chapter, "student" means an individual who:

- (1) is enrolled on a full-time basis as an undergraduate or graduate student at an institution of higher learning that conducts a certified degree program; and
- (2) participates in the internship component of a certified degree program conducted by the institution of higher learning.

Sec. 8. As used in this chapter, "targeted employment" means employment in any of the following business activities:

- (1) Advanced manufacturing, including the following:
 - (A) Automotive and electronics.
 - (B) Aerospace technology.
 - (C) Robotics.
 - (D) Engineering design technology.
- (2) Life sciences, including the following:

- (A) Orthopedics or medical devices.
- (B) Biomedical research or development.
- (C) Pharmaceutical manufacturing.
- (D) Agribusiness.

(E) Nanotechnology or molecular manufacturing.

(3) Information technology, including the following:

- (A) Informatics.
- (B) Certified network administration.
- (C) Software development.
- (D) Fiber optics.

(4) Twenty-first century logistics, including the following:

- (A) High technology distribution.
- (B) Efficient and effective flow and storage of goods, services, or information.
- (C) Intermodal ports.

Sec. 9. (a) The energize Indiana growth scholars fund is established for the following purposes:

(1) To pay the total operating expenses of the commission, including grants and administrative expenses, for the certified degree program.

(2) To reimburse the state general fund for the amount by which internship payroll credits (IC 6-3.1-25) taken by taxpayers reduce tax revenue deposits into the state general fund.

(b) The fund shall be administered by the budget agency.

(c) The expenses of administering the fund shall be paid from money in the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 10. The commission, in consultation with the department of workforce development and the commission for higher education under IC 22-4.1-7, shall establish criteria for certification of a certified degree program under this chapter. The criteria must include the following:

(1) The certified degree program is operated or administered by an institution of higher learning or a department, school, or program within an institution of higher learning.

(2) The certified degree program integrates a particular curriculum or course of study offered at the institution of higher learning with career internships provided by employers.

(3) The certified degree program places students in career internships provided by employers in targeted employment.

(4) The certified degree program requires participating students to meet certain academic standards.

(5) The certified degree program requires employers to provide to participating students the:

- (A) supervision; and
- (B) payroll and personnel services;

that the employers provide to their regular part-time employees, if any.

(6) The certified degree program is designed to provide an internship experience that enriches and enhances the classroom experience of participating students in the field of the targeted employment.

(7) The certified degree program requires employers to comply with all state and federal laws pertaining to the workplace.

(8) The certified degree program complies with any other requirement adopted by rule by the commission after consultation with the department.

Sec. 11. The criteria for a certified degree program may allow:

(1) a student to participate in an internship with an employer in targeted employment at any time during the year, including the summer, as long as the student remains enrolled at the institution of higher learning that operates or administers the certified degree program; and

(2) a graduate of the institution of higher learning to participate in graduate position with an employer in targeted employment at any time during the year, including the summer, as long as the graduate is engaged in a post-graduate component of a certified degree program that is approved under this chapter.

Sec. 12. Any institution of higher learning may apply to the commission to be certified to conduct a certified degree program.

Sec. 13. An institution of higher learning that seeks certification for a certified degree program must:

- (1) submit a request to the commission in the manner and in the form specified by the commission; and
- (2) meet the criteria established under this chapter for the certified degree program.

Sec. 14. The commission, in consultation with the department of workforce development and the commission for higher education, shall certify certified degree programs.

Sec. 15. If an institution of higher learning is certified to conduct a certified degree program, the commission, in consultation with the department of workforce development, the commission for higher education, and the budget agency, shall allocate to the institution of higher learning, on the schedule determined by the commission, the maximum number of students and graduates that may be placed with an employer during a year through the certified degree program. The commission may increase or decrease the number of student and graduate positions allocated to an institution of higher learning, as needed, to:

- (1) temporarily or permanently reallocate unused positions; and
- (2) meet the requirements of section 16 of this chapter.

Sec. 16. The total number of student and graduate positions allocated under section 15 of this chapter to all institutions of higher learning that are certified under this chapter may not exceed a number of positions that will result in a transfer under section 17 of this chapter in any state fiscal year of an amount that exceeds the amount that will be available in the fund from appropriations from the fund, after taking into account any amounts reserved in the fund for transfers in a subsequent state fiscal year.

Sec. 17. In each state fiscal year after June 30, 2003, the budget agency shall transfer from the fund an amount equal to the amount needed to reimburse the state general fund for the amount by which internship payroll credits (IC 6-3.1-25) taken by taxpayers reduced tax revenue deposits into the state general fund in that state fiscal year.

Sec. 18. If any money is available in the fund after:

- (1) reserving amounts and transferring amounts, as needed, to comply with section 17 of this chapter; and
- (2) meeting the other obligations of the fund;

the commission may award to a student a grant from the fund. If the commission awards a grant under this section, the commission shall award the grant in an amount determined by the commission for academic credit to fulfill the internship component of a certified degree program. A grant awarded under this section is in addition to any other grants awarded to a student.

Sec. 19. The commission, in consultation with the department and the commission for higher education, may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 20. In addition to any other appropriation made for the purposes of the fund, the lesser of the amounts transferred to the fund under IC 4-3-32 or following amounts are appropriated from the fund for the purposes of the fund in each of the following specified state fiscal years:

- (1) Four million seven hundred thousand dollars (\$4,700,000) in the state fiscal year beginning July 1, 2003, and ending June 30, 2004.
- (2) Five million one hundred thousand dollars (\$5,100,000) in the state fiscal year beginning July 1, 2004, and ending June 30, 2005.

(3) Five million six hundred thousand dollars (\$5,600,000) in the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(4) Six million one hundred thousand dollars (\$6,100,000) in the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

The spending authority granted by an appropriation under this section does not expire at the end of the state fiscal year for which the appropriation is made but remains available for expenditure from the fund in any state fiscal year that ends before July 1, 2013.

Sec. 21. This chapter expires July 1, 2013.

SECTION 62. IC 36-7-32-11, AS ADDED BY P.L.192-2002(ss), SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.(a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the department of commerce may designate a certified technology park if the department determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education or a private research based institute located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

- (A) Grants of preferences for access to and commercialization of intellectual property.
- (B) Access to laboratory and other facilities owned by or under the control of the institution of higher education or private research based institute.
- (C) Donations of services.
- (D) Access to telecommunications facilities and other infrastructure.
- (E) Financial commitments.
- (F) Access to faculty, staff, and students.
- (G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.
- (H) Other criteria considered appropriate by the department.

(2) A demonstration of a significant commitment by the institution of higher education or private research based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

- (A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.
- (B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.
- (C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

- (A) A commitment to new business formation.
- (B) The clustering of businesses, technology, and research.
- (C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The department of commerce may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

SECTION 63. IC 36-7-32-22, AS ADDED BY P.L.192-2002(ss), SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(c) Not more than a total of five million dollars (\$5,000,000) may be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) (c) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

SECTION 64. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: (a) As used in this SECTION, "department" refers to the department of workforce development.

(b) The credit against a taxpayer's state tax liability provided under IC 6-3.1-25, as added by this act, applies to taxable years beginning after December 31, 2002.

(c) Notwithstanding IC 22-4.1-7-8, as added by this act, the state student assistance commission, in consultation with the department and the commission for higher education, may adopt temporary rules to implement IC 22-4.1-7, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1.

SECTION 65. An emergency is declared for this act.

(Reference is to HB 2008 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 17, nays 11.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 2009, has had the same under consideration and

begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-12-1-14.3, AS AMENDED BY P.L.291-2001, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.3. (a) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

(b) There is hereby created the Indiana tobacco master settlement agreement fund for the purpose of depositing and distributing money received under the master settlement agreement. The fund consists of:

(1) all money received by the state under the master settlement agreement;

(2) appropriations made to the fund by the general assembly; and

(3) grants, gifts, and donations intended for deposit in the fund.

(c) Money may be expended, transferred, or distributed from the fund during a state fiscal year only in amounts permitted by subsections (d) through (e); and only if the expenditures, transfers, or distributions are specifically authorized by another statute.

(d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2000, is determined under STEP THREE of the following formula:

STEP ONE: Determine the sum of money received or to be received by the state under the master settlement agreement before July 1, 2001.

STEP TWO: Subtract from the STEP ONE sum the amount appropriated by P.L.273-1999, SECTION 8, to the children's health insurance program from funds accruing to the state from the tobacco settlement for the state fiscal years beginning July 1, 1999, and July 1, 2000.

STEP THREE: Multiply the STEP TWO remainder by fifty percent (50%).

(e) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2001, and each state fiscal year after that is determined under STEP THREE of the following formula:

STEP ONE: Determine the amount of money received or to be received by the state under the master settlement agreement during that state fiscal year.

STEP TWO: Multiply the STEP ONE amount by sixty percent (60%).

STEP THREE: Add to the STEP TWO product any amounts that were available for expenditure, transfer, or distribution under this subsection or subsection (d) during preceding state fiscal years but that were not expended, transferred, or distributed.

(f) The following amounts shall be retained in the fund and may not be expended, transferred, or otherwise distributed from the fund:

(1) All of the money that is received by the state under the master settlement agreement and remains in the fund after the expenditures, transfers, or distributions permitted under subsections (c) through (e);

(2) All interest that accrues from investment of money in the fund, unless specifically appropriated by the general assembly. Interest that is appropriated from the fund by the general assembly may not be considered in determining the maximum amount of expenditures, transfers, or distributions under subsection (e);

(g) (c) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the

fund. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

~~(b)~~ **(d)** The state general fund is not liable for payment of a shortfall in expenditures, transfers, or distributions from the Indiana tobacco master settlement agreement fund or any other fund due to a delay, reduction, or cancellation of payments scheduled to be received by the state under the master settlement agreement **or for any other reason. Unless otherwise provided by statute**, if such a shortfall occurs in any state fiscal year, ~~the budget agency shall make the full transfer to the regional health facilities construction account and then reduce all remaining expenditures, transfers, and distributions affected by the shortfall shall be reduced proportionately.~~

SECTION 2. IC 4-12-8.5-3, AS ADDED BY P.L.291-2001, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The regional health care construction account is established for the purpose of providing funding for state psychiatric hospitals and developmental centers, regional health centers, or other health facilities designed to provide crisis treatment, rehabilitation, or intervention for adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs. The account consists of:

- (1) amounts, if any, that any statute requires to be distributed to the account from the Indiana tobacco master settlement agreement fund;
- (2) appropriations to the account from other sources; and
- (3) grants, gifts, and donations intended for deposit in the account.

~~(b)~~ Fourteen million dollars (\$14,000,000) shall be transferred during state fiscal years 2001-2002 and 2002-2003 from the Indiana tobacco master settlement fund to the account.

~~(c)~~ **(b)** The budget agency shall administer the account. Money in the account at the end of a state fiscal year does not revert to the state general fund but remains available for expenditure.

~~(d)~~ **(c)** Money in the account may be used for:

- (1) the construction, equipping, renovation, demolition, refurbishing, or alteration of existing or new state hospitals, regional health centers, or other health facilities; or
- (2) lease rentals to the state office building commission or other public or private providers of such facilities.

~~(e)~~ **(d)** Money in the account shall be used to pay any outstanding lease rentals before making any other payments from the account.

~~(f)~~ **(e)** Money in the account is annually appropriated for the purposes described in this chapter.

SECTION 3. IC 6-7-1-30.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30.5. (a) There is annually appropriated to the local health maintenance fund established by IC 16-46-10 ~~two million three hundred seventy thousand dollars (\$2,370,000)~~ **two million four hundred thirty thousand dollars (\$2,430,000)** from the state general fund to provide funds for annual distribution to local boards of health in accordance with IC 16-46-10-2 to enable local boards of health to provide basic health services.

(b) The state department of health may retain annually a maximum of fifty thousand dollars (\$50,000) of the total appropriation to the local health maintenance fund under subsection (a) to pay administrative expenses incurred by the state department of health in distributing the funds to local health departments.

SECTION 4. IC 20-12-21.9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The commission shall administer the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds. Interest that accrues from those investments shall be deposited in the fund.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund **or the Indiana tobacco master settlement agreement fund.**

SECTION 5. IC 20-12-22.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 22.2. Health Professions Scholarship Fund

Sec. 1. As used in this chapter, "approved institution of higher learning" has the meaning set forth in IC 20-12-21-3.

Sec. 2. As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

Sec. 3. As used in this chapter, "fund" refers to the health professions scholarship fund.

Sec. 4. (a) The health professions scholarship fund is established to encourage and promote qualified individuals to pursue careers in health professions in Indiana.

(b) The fund consists of the following:

- (1) Appropriations by the general assembly.
- (2) Gifts to the fund.

Sec. 5. (a) The commission shall administer the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from those investments shall be deposited in the fund.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund or the Indiana tobacco master settlement agreement fund.

Sec. 6. (a) The money in the fund shall be used to provide annual scholarships to:

(1) students in programs leading to degrees that will enable the students to qualify for licensing in health professions governed by the:

- (A) board of environmental health specialists (IC 25-32);
- (B) speech-language pathology and audiology board (IC 25-35.6-2);
- (C) Indiana physical therapy committee (IC 25-27);
- (D) respiratory care committee (IC 25-34.5);
- (E) occupational therapy committee (IC 25-23.5);
- (F) physician assistant committee (IC 25-27.5); and
- (G) Indiana dietitians certification board (IC 25-14.5-2-1); and

(2) students in training programs identified by the medical licensing board by rule adopted under IC 25-22.5-2-7 as training programs for nonlicensed allied health care professions.

(b) Scholarships shall be awarded under this section to students who qualify by demonstrating a financial need and meeting the requirements listed under section 8 of this chapter in an amount that is equal to the lesser of the following amounts:

- (1) The balance of the student's total cost of tuition or fees in attending the eligible institution for the academic year.
- (2) Five thousand dollars (\$5,000).

(c) A scholarship awarded under this section may be used only for the payment of tuition or fees that are:

- (1) approved by the approved institution of higher learning that awards the scholarship; and
- (2) not otherwise payable under any other scholarship or form of financial assistance specifically designated for tuition or fees.

(d) Subject to section 7(c) of this chapter, each scholarship awarded under this section is renewable under section 8(b) of this chapter for a total number of terms that does not exceed eight (8) full-time (or part-time equivalent) semesters or twelve (12) full-time (or part-time equivalent) quarters.

Sec. 7. (a) The commission for higher education shall provide the commission with the most recent information concerning the number of students enrolled in programs described in section 6 of this chapter at each eligible institution.

(b) The commission shall allocate the available money from the fund to each approved institution of higher learning that has a program for persons training for health professions designated in section 6 of this chapter in proportion to the number of

students enrolled in courses for health professions designated in section 6 of this chapter at each eligible institution based upon the information received by the commission under subsection (a).

(c) Each approved institution of higher learning shall determine the scholarship recipients under this chapter based upon the criteria set forth in section 8 of this chapter and the rules adopted by the commission under section 10 of this chapter. In addition, the approved institution of higher learning shall consider the need of the applicant when awarding scholarships under this chapter.

(d) The approved institution of higher learning may not grant a scholarship renewal to a student for an academic year that ends later than six (6) years after the date the student received the initial scholarship under this chapter.

(e) Any funds that:

(1) are allocated to an approved institution of higher learning; and

(2) are not used for scholarships under this chapter;

shall be returned to the commission for reallocation by the commission to any other eligible institution in need of additional funds.

Sec. 8. (a) To qualify initially for a scholarship from the fund, a student must:

(1) be admitted to an approved institution of higher learning as a full-time or part-time student in one (1) of the areas designated in section 6(a) of this chapter;

(2) agree, in writing, to work in a health profession described in section 6(a) of this chapter in any type of health care setting in Indiana for at least two (2) years following graduation;

(3) meet any other minimum criteria established by the commission; and

(4) demonstrate a financial need for the scholarship.

(b) To qualify for a scholarship renewal from the fund, a health professions student must:

(1) comply with the criteria set forth in subsection (a);

(2) maintain at least the cumulative grade point average:

(A) that is required by an approved institution of higher learning for admission to the approved institution of higher learning; or

(B) equivalent to 2.0 on a 4.0 grading scale, as established by the approved institution of higher learning, if the institution's program for health professions described in section 6 of this chapter does not require a certain minimum cumulative grade point average; and

(3) demonstrate a continuing financial need for the scholarship.

Sec. 9. (a) The commission shall maintain complete and accurate records in implementing the program, including the following:

(1) Scholarships awarded under this chapter.

(2) The number of individuals who fulfilled the agreement described under section 8(a)(2) of this chapter.

(3) The number of individuals who did not fulfill the agreement described under section 8(a)(2) of this chapter.

(b) Each eligible institution shall provide the commission with information concerning the following:

(1) The awarding of scholarships under this chapter.

(2) The academic progress made by each recipient of a scholarship under this chapter.

(3) Other pertinent information requested by the commission.

Sec. 10. The commission shall adopt rules under IC 4-22-2 necessary to carry out this chapter, including rules governing the enforcement of the agreements under section 8(a)(2) of this chapter.

SECTION 6. IC 25-22.5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of its official duties.

(3) Enforce this article and assign service bureau personnel duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the service bureau, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

(10) Adopt rules identifying training programs for nonlicensed allied health care professions that qualify for annual scholarships under IC 20-12-22.2.

SECTION 7. [EFFECTIVE JULY 1, 2003] (a) The definitions set forth in HEA 1001-2003, SECTION 1, apply throughout this SECTION.

(b) The following sums are appropriated for the periods designated from the Indiana tobacco master settlement agreement fund (IC 4-12-1-14.3):

	FY 2003-	2004-
	FY 2004	2005

**FOR THE INDIANA HEALTH CARE
ADVISORY BOARD**

Children's Health Insurance Program

Total Operating

Expense	23,800,000	26,200,000
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**FOR THE TOBACCO USE PREVENTION
AND CESSATION BOARD**

TOBACCO USE PREVENTION AND

CESSATION PROGRAM

Total Operating

Expense	32,000,000	32,000,000
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**FOR THE STATE BUDGET AGENCY
INDIANA PRESCRIPTION DRUG PROGRAM**

Total Operating

Expense	8,000,000	8,000,000
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With the approval of the governor and the budget agency, the above appropriations for the Indiana prescription drug program may be augmented for each fiscal year from the Indiana tobacco master settlement agreement fund to an amount not to exceed in total, together with the above specific amounts, \$20,000,000.

**FOR THE STATE DEPARTMENT OF HEALTH
COMMUNITY HEALTH CENTERS**

Total Operating

Expense	15,000,000	15,000,000
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LOCAL HEALTH MAINTENANCE FUND

Total Operating
Expense 1,400,000 1,400,000

The above appropriations for the local health maintenance fund are in addition to and not in lieu of the appropriation provided for this purpose in IC 6-7-1-30.5 or any other law.

LOCAL HEALTH DEPARTMENT ACCOUNT

Total Operating
Expense 3,000,000 3,000,000

The foregoing appropriations for the local health department account are statutory distributions pursuant to IC 4-12-7.

FOR THE FAMILY AND SOCIAL**SERVICES ADMINISTRATION****DIVISION OF DISABILITY, AGING,
AND REHABILITATIVE SERVICES
ADMINISTRATION**

Total Operating
Expense 3,000,000 3,000,000

The foregoing appropriations for the division of disability, aging, and rehabilitative services are appropriated for the home health providers to increase the salaries of direct care workers.

DEVELOPMENTALLY DISABLED CLIENT SERVICES

Total Operating
Expense 21,300,000 21,300,000

The foregoing appropriations for developmentally disabled client services are in addition to and not in lieu of any other appropriations for developmentally disabled client services.

**FOR THE STATE STUDENT ASSISTANCE COMMISSION
NURSING SCHOLARSHIP PROGRAM**

Total Operating
Expense 1,000,000 1,000,000

The above appropriations for the nursing scholarship program are in addition to and not in lieu of any other appropriations for the program. The state student assistance commission shall use twenty-five percent (25%) of the above appropriations for the nursing scholarship program to encourage and promote qualified minority individuals to pursue a career in nursing in accredited schools in Indiana.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

Total Operating
Expense 1,000,000 1,000,000

The state student assistance commission shall use twenty-five percent (25%) of the above appropriations for the health professions scholarship program to encourage and promote qualified minority individuals to pursue a career in health professions in accredited schools in Indiana.

FOR THE COMMISSION ON HISPANIC/LATINO AFFAIRS

Total Operating
Expense 125,000 125,000

The above appropriations are in addition to any funding for the commission derived from funds appropriated to the department of workforce development.

(c) There is appropriated to the budget agency two million nine hundred thousand dollars (\$2,900,000) from the Indiana tobacco master settlement agreement fund for its use in carrying out the purposes of the regional health facilities construction account (IC 4-12-8.5) during the period beginning July 1, 2004, and ending June 30, 2005.

(d) The following provisions apply if the Indiana tobacco master settlement agreement fund contains insufficient money to make the appropriations made by subsections (b) and (c) for any state fiscal year:

(1) The appropriations made for the TOBACCO USE PREVENTION AND CESSATION PROGRAM and the LOCAL HEALTH DEPARTMENT ACCOUNT are not subject to any reduction.

(2) Each of the other appropriations made by this act is subject to a pro rata reduction. The amount of each appropriation is determined under STEP FOUR of the following formula:

STEP ONE: Subtract the sum of the appropriations described in subdivision (1) for that state fiscal year from the amount available in the Indiana tobacco master settlement agreement fund for that state fiscal year.

STEP TWO: Determine the sum of the appropriations made by this act for that state fiscal year, other than the appropriations described in subdivision (1).

STEP THREE: Divide the amount of the particular appropriation by the STEP TWO sum.

STEP FOUR: Multiply the STEP ONE remainder by the STEP THREE quotient.

(e) The following sums are appropriated for the state fiscal years designated from the state general fund:

<i>FY 2003-</i>	<i>2004-</i>
<i>FY 2004</i>	<i>2005</i>

FOR THE FAMILY AND SOCIAL**SERVICES ADMINISTRATION****DIVISION OF DISABILITY, AGING,
AND REHABILITATIVE SERVICES
ADMINISTRATION****DEVELOPMENTALLY DISABLED CLIENT SERVICES**

Total Operating
Expense 9,000,000 9,000,000

The foregoing appropriations for developmentally disabled client services are in addition to and not in lieu of any other appropriations for developmentally disabled client services.

(f) The additional money appropriated by the amendment made to IC 6-7-1-30.5 by this act is intended to provide additional funding to adjust funding through the formula in IC 16-46-10 to reflect population increases in various counties.

SECTION 8. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) With the approval of the governor and the budget agency after review by the budget committee, the office may apply to the United States Department of Health and Human Services for an amendment to the Pharmacy Plus Section 115 Demonstration waiver for Phase II of the Indiana prescription drug program established under IC 12-10-16 that would amend the waiver to allow the program to provide services to an individual whose family income does not exceed one hundred eighty-five percent (185%) of the federal income poverty level for the same size family.

(c) The office may not implement the amendment to the waiver until the office files an affidavit with the governor attesting that the amendment to the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the amendment to the waiver is approved.

(d) If the office receives approval to amend the waiver as set forth in subsection (b) of this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the amendment to the waiver not more than thirty (30) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2008.

(Reference is to HB 2009 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 17, nays 11.

CRAWFORD, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE**Referrals to Ways and Means**

The Speaker announced, pursuant to House Rule 127, that House Bills 1235, 1251, 1458, 1468, 1562, 1721, 1842, and 1939 had been referred to the Committee on Ways and Means.

Reassignments

The Speaker announced the reassignment of House Bills 1921 and 1944 to the Committee on Rules and Legislative Procedures.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, February 26, 2003 at 10:30 a.m.

PELATH

Motion prevailed.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1139, Roll Call 186, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote yea."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 186 to 96 yeas, 1 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1171, Roll Call 189, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote yea."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 189 to 96 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1244, Roll Call 193, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote yea."

KLINKER

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1244, Roll Call 193, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote yea."

BEHNING

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1244, Roll Call 193, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote yea."

RICHARDSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Klinker, Behning, and Richardson changes the vote tally for Roll Call 193 to 94 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1625, Roll Call 160, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

STUTZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 160 to 82 yeas, 11 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Joint Resolution 9, Roll Call 199, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote nay."

BURTON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 199 to 52 yeas, 47 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representatives Harris, Buck, and T. Brown be added as coauthors of House Bill 1184.

STILWELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives T. Brown and Ruppel be added as coauthors of House Bill 1251.

V. SMITH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1276.

WEINZAPFEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as coauthor of House Bill 1525.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Noe be removed as coauthor of House Bill 1528.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1662.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Stilwell, Torr, and Becker be added as coauthors of House Bill 1683.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Brown be removed as coauthor of House Bill 1757.

KLINKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Harris and Kuzman be added as coauthors of House Bill 1813.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stutzman be added as coauthor of House Bill 1828.

BOSMA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be removed as author of House Bill 1899, Representative Austin be substituted as author, and Representative Frizzell be added as coauthor.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Cochran, Hasler, and Lytle be added as coauthors of House Bill 2008.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative C. Brown be added as coauthor of House Bill 2009.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dvorak be added as author of House Bill 2032 and that Representatives Fry, Mangus, and Heim be added as coauthors.

DVORAK

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Mays, the House adjourned at 5:55 p.m., this twenty-fifth day of February, 2003, until Wednesday, February 26, 2003, at 10:30 a.m.

B. PATRICK BAUER

Speaker of the House of Representatives

DIANE MASARIU CARTER

Principal Clerk of the House of Representatives